United States Court of Appeals

for the Second Circuit

EXHIBITS

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UNITED STATES COURT OF APPEALS
FILED
NOV 19 1976
CLERK
SECOND CIRCUIT

No. 76-6150

United States Court of Appeals

FOR THE SECOND CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *Plaintiff-Appellee*

v.

LOCAL 14, INTERNATIONAL UNION OF OPERATING ENGINEERS;
LOCAL 15, INTERNATIONAL UNION OF OPERATING ENGINEERS;
ET AL., *Defendants-Appellants*

On Appeal from the United States District Court for the Southern District of New York

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EXHIBIT VOLUME 4

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff	Before: HON. CHARLES H. TENNEY, District Judge
vs.	72 CIVIL 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, ET AL., Defendants.	

U.S. DISTRICT COURT
FILED
NOV 18 1974
S.D. OF N.Y.

New York, October 9,10,11, 1974

STENOGRAPHER'S MINUTES

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs.
LOCAL 14 INTERNATIONL UNION OF OPERATING ENGINEERS, et al.

72 Civ. 2498

New York, October 9, 1974;
10.00 A.M.

Trial resumed.

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MR. BRADY: John Phillips.

J O H N P H I L L I P S, called as a witness on behalf of the Defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Phillips, for the record, what is your race?

A Negro.

Q What is your age?

A 52.

Q You are a member of the Operating Engineers Union?

A Yes, sir.

Q Which local?

A 15.

Q How long a period of time have you been a member

of Local 15?

A Since 1966.

Q At that time did you have experience in the line?

A Yes.

Q What kind of experience did you have?

A I was a general operator and mechanic for about 15 years before, 20 years.

Q Was that experience obtained in the United States?

A No, in Jamaica, West Indies.

Q In 1966 where were you employed?

A Well, the way I started with the union, I started in 1962. I worked through the season in 1962 on permit and I didn't go back because I got my permit job and my wife, she wanted a regular thing, she don't want to gamble, so I got another job until 1964,about.

Q Where were you employed on a regular basis?

A McKay Trucking.

Q How long did you work for McKay?

A I worked with them from, if I remember right, January, 1963, until 1965.

Q When you first came down to the union in 1962 --

A 1962, yes.

Q -- were you referred out to jobs?

A Yes. I came there and I spoke to John Murphy. So he asked me my experience. I told him and he says, "If you have that experience sit around and I will send you out."

I sat around around a week and he sent me out.

Q What job were you sent out on?

A Sent out on the Clearview Expressway on a scraper.

Q Operating a scraper?

A Yes, sir.

Q How long did that job last?

A I think I got laid off a week or two, maybe about a week.

Then I went back in the office.

Q How long did you stay in the hall the second time?

A Not even a minute. He saw me in the door and he said, "Why did you come back?" And I said, "I got laid off."

He said, "They just sent for a bulldozer operator and you said you can operate a bulldozer. Go back out there."

Q To the same job?

A To the same job. So I went back and stayed

there about four months steady.

Q Then did that job end?

A Well, they laid off my machine along with others.

Q When your machine is laid off is that when you are laid off?

A Yes, I understood that at the time.

Q Is that the general rule in the industry?

A Yes, that is the general rule ever since.

Q Did you go back to the hall again?

A Yes.

Q What happened then?

A I got sent from place to place, a week, two weeks, three weeks, but I did very good in that year.

Q Then there came a time when you decided you were going --

A I got called upon one thing and then I was just new in the country and that was one of the reasons, plus I had a little money and I wanted to buy a house which my wife said hold on to the permanent job until we get the house straightened out, which I did. I got straightened out.

I went back there in 1965, things weren't so good, so they sent me up-State to work along with some other fellows.

Q The union sent you up-State?

A Yes, Mr. McGuire went me up-State along with some other fellows.

Q Were the other fellows who were sent up-State white men?

A On the contrary, I think I was the only black man.

Q You were the only black man?

A The next year we had somebody, in 1965 I was the only black man.

Q Times were very bad in '65?

A Oh, yes.

Q Where did you work upstate?

A On 17, within Roscoe, between Roscoe -- around Roscoe.

Q How long did you work up there?

A Road work, scraper.

Q How long did you work up there?

A Well, I worked up there until it got cold and they laid down the road job.

Q They shut down?

A Because road work, they can't do it with such temperature.

Q You said it wascold. Was that the end of '65?

A Yes, in '65. I think I came down around November.

Q What happened after that?

A Well, things was bad. We didn't get anything until '66, around May. They gave me my book then and I went back upstate.

Q You back upstate?

A Yes.

Q How long did you stay upstate this time?

A Well, I worked right up, I remember the exact date, I quit there in November. I actually asked to leave really for personal reasons and came down.

Q You asked to leave the job upstate?

A Yes, for personal reasons.

Q About how long were you up there?

A Until from May, around May, until November. I came down in November.

Q Then were you referred out of the hall again?

A Well, I didn't get much work during that time. Like one day, you know, little picking, picking, until March, March. I got sent out to Tully & DiNapoli over in Staten Island. I did a season there on the scraper again.

Q What's a season? How long is that?

A Well, I worked -- I know it was cold. I don't remember what time, but it was pretty gold. I got a good break there anyway. I got a fairly good break over there with Tully & DiNapoli.

Q You have used the hall quite frequently for referrals?

A In those days, yes. I don't go much more now. I am kind of steady going now.

Q Work is better now?

A Oh, yes, much better. I've been going steady since 1968. I worked with one company and they laid me off. I think I boxed around for about three months and I have been with this company now going on three years.

Q Three years' work?

A Yes, I've been doing good.

Q In the times that you have used the hall for referral have you seen any discrimination against blacks on referrals to work?

A No, I can't say that, no. No, not -- no. All men come in sometimes and they get mad and I see Maguire get mad with white guys and the contractor. I see a white guy that I think I would really throw out, that's the truth, because Maguire was a hot-tempered man, you know, but I don't see nothing like that.

Q When times are bad for whites it is bad for blacks also?

A For everyone.

Q What is the job you are presently on, Mr. Phillips?

A I am oiling a crane.

Q Where is that job?

A Up on the Hudson River, on Perini, North River.

Q Are there other black members of Local 15 on the job?

A A whole lot of them.

I see two of them there.

A whole lot of them.

Q Do you know what kind of work they are doing?

A They do everything.

Q Do they operate?

A No, there is not much operating there for 15, rarely, because it's cranes, you know, and the 14 operates the crane. Like I am an oiler and most of us are oilers but the welders, maintenance men.

Q Have you ever been assigned to a well point job, Mr. Phillips?

A Oh, yes, I did well point a few times.

Q How many times have you had well point jobs?

A I remember three. They didn't last long, but I remember going on the well points about three times.

Q Were you unhappy to get those jobs?

A Everybody grub for them. Those are rough days, '65, '66, in the rough time. You know, you get it like two or three days. You like it because it meets your breadbasket.

Q And the rate of pay is good, is it not?

A Oh, yes, the rate of pay is very good.

Q Have you seen white men on well point jobs?

A Oh, yes.

Q Do blacks receive the same pay, rate of pay, as whites?

A I do. I do. They better not mess with mine because I do. I don't know for the other guys but I get mine.

Q The same benefits too?

A Yes.

Q Do you attend union meetings on occasions?

A Yes. I don't -- yes, I do. Poor attendance, but I do once in a while.

Q Now, do blacks have the same rights at the union meetings as whites do?

A Yes, as far as I see, yes.

Q If you don't mind telling us, approximately how much money did you make last year?

A I made about 27.

Q Twenty-seven thousand?

A Yes.

MR. BRADY: No further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Phillips, when you got that first job back in 1962 as an engineer what kind of job was it?

A Run a scraper.

Q That was the job you received from the hall?

A Yes.

Q And how long did you stay on that job?

A Like I say, it was a week. Maybe a few days. It wasn't much, though. Maybe a week or so, and then they laid the scraper off and I went back to the hall.

Q And then you got another job?

A The same company. I didn't lose any time, you know. I guess the company was trying to get rid of me, that's the way I figured they talked.

Q The company was trying to get rid of you from the first job?

A Yes, I figured, because, you see, I went on the scraper and anybody with experience will know a scraper man must be able to run a bulldozer. So they laid me off and called the hall for two bulldozer operators, so Johnny sent me right back out there.

Q You say anybody that can run a scraper can

run a dozer?

A Should be able to, yes.

Q Had you learned how to operate both of those in Jamaica?

A Yes.

Q You had operated about 15 years in Jamaica?

A Yes.

Q Was that good experience?

A Yes. Well, for me I say it's good, yes. I can stay out there with any operator.

Q Were you pretty good back in 1962?

A Yes. Young guy then and more alert, not old and shaky like I am now.

Q Then you stayed on that job again for four months?

A About that, yes.

Q Did your machine close down after that?

A Yes.

Q Did you go back to the hall?

A Yes.

Q Did you get another job?

A Yes, I got quite a few pieces,like two weeks, three weeks, you know; two weeks here, three weeks there, and I did pretty good in the season, I would say.

Q Did you work pretty well in 1962?

A Yes, I did pretty good there.

Q Then in January of '63 you got the job with McKay?

A Yes.

Q Were you still on permit from the union when you got the McKay job?

A Yes.

Q Do you remember which month in 1962 it was that you got the first job as a scraper?

A No, I couldn't remember that.

Q Would it be springtime or wintertime?

A It was, if I remember right -- it was a little chilly, but it was just about the time that work is starting up again.

Q Agout March or so?

A Maybe March or April.

Q What kind of work did you do for McKay?

A Mechanic for trucks.

Q On Heavy equipment?

A Heavy equipment, trucks and things like that.

Q Was that in a shop?

A Shop, yes.

Q Was McKay a union contractor?

A Yes.

Q He had an agreement with Local 15?

A No. It was a different -- it was a machinists union. I was also a member of the machinists union.

Q You were a member of the machinists union?

A Yes, I was.

Q When did you become a member of the machinists union?

A I think I worked for McKay maybe two or three months and then they put me in it. I don't remember exactly.

Q You stayed with McKay through '65?

A Until '65.

Q Back when you saw Johnny Murphy the first time I think you said he told you to sit around the hall?

A He said, "Soon as the hall is not crowded. I am crowded now but sit around. Soon as I get a few of the men out I'll send you out."

Q At that time did he ask you to sign anything?

A No, he didn't. If he did, I don't remember it.

Q I believe you said that in '65 you looked for engineers work again?

A Yes.

Q Do you remember what part of '65 that was?

A Just about the beginning of the season, really. The month I really don't remember.

Q Did you go back to the hall?

A Yes, I went back to the hall.

Q What happened when you went back to the hall?

A Well, I stayed there for maybe a week and then I was sent upstate.

Q Was your family still in New York City?

A Yes.

Q Are you married, Mr. Phillips?

A Yes, I was.

Q How old are you?

A Fifty-two.

Q Did you have any children then?

A Yes.

Q And they stayed here in New York?

A Yes. I have my home established here.

Q What kind of job did you get upstate?

A Run scraper; scraper and bulldozer both.

Q How long did you stay up there?

A Until the season came down. You know, it got cold and they shut down the road work.

Q Did the union in New York send you to a specific job upstate?

A Specific job, yes.

Q And then you came back to the city in the winter of '65?

A Yes.

Q When you testified, I believe, that you pretty much didn't get a job until May the next year?

A Yes. That's right, it was a rough time.

Q And that job was upstate again?

A Yes.

Q When they sent you upstate again, is that when you got your book?

A Yes, I got my book. And then they sent me upstate this time.

Q And you worked there until November and then came back to the city?

A Yes.

Q And you didn't get a job pretty much until March again?

A In between, you know, you get like one day --

Q A day here and a day there?

A Little pickings until the season got up good.

Q And you had come back from that second upstate job around November?

A November, yes.

Q That would be, I think, November of '66?

A Yes.

Q Then some time in '68 you began to get steady work?

A Yes. '67. '67 I did the season too.

Q That was in March of '67?

A Around that time. I don't remember what month exactly. Anyway, I was in Staten Island.

Q You have had pretty much steady work since then?

A Yes, I worked the whole season then.

Q Oh, yes, since then I don't lose no time.

Q Are you working for Perini now?

A Yes.

Q Is Perini paying you for today?

A Well, I don't know what's going to happen here. I guess, I hope they will. I try to -- I don't know for sure. I am hoping they will.

Q Were you told anything by any business dele-

gates about Perini paying you for today?

A No. I -- when I was asked to come in -- no. We got, you see -- we got our little thing that maybe you can sneak away, because there is just me and my engineer. Well, I have to disclose that anyway.

Q Did the delegate -- I am sorry. I didn't hear you, Mr. Phillips.

A Well, the delegate really didn't have no concern. I didn't bring it up to him really, you know. But I am hoping to get paid. Put it that way.

Q Was it one of the delegates that asked you if you would come down and testify today?

A No.

MR. BRADY: I object.

THE COURT: Is that the government's case?

MR. DEVORKIN: I will withdraw that, your Honor.

MR. BRADY: I have nothing further, your Honor.

THE COURT: All right. You are excused.

(Witness excused.)

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MR. BRADY: Mr. Vaughan.

K E N N E T H V A U G H A N, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Vaughan, how old are you?

A 62.

Q For the record, what is your race?

A Afro-American.

Q Are you presently a member of Local 15?

A Yes.

Q How long have you been a member of the Operating Engineers?

A 24 years.

Q That was 1950 when you became a member?

A Yes, 1950.

Q What local did you become a member of?

A 15-C.

Q At that time, Mr. Vaughan, did you have experience in the line of work?

A Yes. I had experience in the line of work. I was working around as a mechanic's helper at that time in the shop.

Q Do you recall what shop that was?

A M.F. Hickey Company.

Q What was your first contact with Local 15?

A Local 15 organized shop and all of us joined the union at that time.

Q At that time were there whites and blacks in the shop?

A Yes.

Q After your shop was organized did you receive an increase in pay?

A Yes.

Q Do you recall how much?

A No.

Q What kind of work, Mr. Vaughan, were you doing in the shop?

A Working on all kinds of equipment from the cranes, engines, et cetera, trucks.

Q Is that repair work?

A Yes.

Q You were hired directly by Hickey?

A Yes.

Q Do you recall how old you were when you were hired by Hickey?

A I was about 26 at that time.

Q Had you had experience before Hickey hired you?

A No.

Q He hired you as a helper?

A A helper.

Q How long did you work for Hickey?

A Until 1967.

Q During that time what did you learn with Hickey?

A After I came out of the Service I went to mechanics school, Hemphill Diesel School, and studied under the GI Bill at night and I became a mechanic.

Q When were you in the Service?

A From 1943 to 1946.

Q That is when you were hired as a helper thereafter?

A Thereafter I became a mechanic.

Q With Hickey?

A With Hickey.

Q Did there come a time when you got your book in Local 15-C?

A When the shop was organized I got my book.

Q In the 17 years you worked for Hickey were you represented by the local union?

A Yes.

Q Did you have any problems with the union during

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that time?

A No.

Q What happened in 1967?

A In 1967 I got hurt, in May, 1967, and the company went out of business in December, 1967.

Q Were you out of work for a period of time?

A Yes.

Q What did you do then?

A I was hospitalized for the better part of 1967 and after that I stayed home for part of 1968 and after that I went to the union and the union then sent me out to Marvisi in Hicksville.

Q How long after you went down to the union was it before you were sent to a job, do you recall?

A A matter of a week or so.

Q What was the job you were sent to?

A Mechanic.

Q Was that in another shop?

A Another shop, Marvisi in Hicksville, Long Island.

Q How long did you work there?

A Nine weeks.

Q What happened then?

A Business was very slow.

Q Were you laid off?

A Laid off.

Q Did you go back to the hall?

A Yes.

Q Did you get another referral?

A Yes. I think I worked also for Certified at the time, a short period of time.

After Certified I was out at Bell Eastern a short period of time.

Q These were all union referred jobs?

A Yes.

Q Bell Eastern, how long did you work there?

A A short period of time. Business was very bad there, too.

Q You went back to the hall?

A Yes.

Q The union refer you out to another job?

A Yes, to Certified Concrete outfit.

Q Was that a shop job, too?

A Yes.

Q How long were you there?

A A short period of time.

Q Did there come a time when you changed your membership from 15-C to 15?

A I changed my membership book in 1969. They sent

me out on another job oiling on the machine.

Q At any time prior to 1969 had you asked for a transfer to Local 15?

A No.

Q Did you ask for this transfer or is that the job they sent you out on?

A They sent me out on this because the shops were all very slow and after I was sent out to Don Hanley I went over to 15. But I only worked a short period of time in 1968 because I went to work very late in 1968 because I was ill. I had an accident.

Q In 1969 you transferred over?

A Yes.

Q During these times when you were ill, your family was ill, did you receive union benefits?

A Yes, I did.

Q Do you know what benefits you received?

A That I don't remember.

Q Medical bills paid?

A Yes -- excuse me, but that was through Compensation.

Q All your illnesses were Compensation?

A Yes, Compensation case.

Q Did you ever have any occasion to call upon the

Union Welfare Fund to pay benefits for your family or yourself?

A I did in 1963. I was sick with an ulcerated stomach and my wife was sick in 1964 and the union paid for the bills.

Q During your period of time in Local 15-C, some 17 years, did you have any complaints against the union?

A No.

Q Were you discriminated in any way because of your race?

A No.

Q Since 1969 have you been working on the outside?

A Yes.

Q Can you give us an example of some of the jobs you have been working on, Mr. Vaughan?

A I started out on the outside with Don Hanley and I stood with him about almost two years or better.

Q Two years?

A Yes, on various jobs all around.

Q After that where did you go?

A We took the machine back to the yard, it was slow, and they sent me out to various other jobs again. I went back to the hall.

I worked for Horn Construction, Slattery,

practically everyone.

Q All these referrals were from the union?

A Yes.

Q Using the day room for referral, is it your opinion that whites get preference in the referral system?

A No.

Q Have there been occasions when you have been sent out before white men have?

A Not that I know of.

Q Do you feel that the referral system is worked on an equal basis?

A On an equal basis.

Q Have you worked any well point jobs?

A No.

Q What is your present job?

A Oiling.

Q What job is that on?

A Staten Island in the sewerage disposal.

Q How long have you been there?

A I guess about a year and a couple of weeks now -- couple of days.

Q Do you have any objection to telling the Court approximately how much you made in the last year?

A I made about $23,000 last year.

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MR. BRADY: I have no further questions, your Honor.

MR. KENNEDY: I have no questions, your Honor.

MR. GLASSMAN: We have no questions of this witness, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Ralph Jones.

R A L P H J O N E S, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Jones, for the record what is your race?

A Afro-American.

Q How old are you, sir?

A 55.

Q Are you a member of Local 15?

A I am.

Q How long have you been a member of Local 15?

A I figure about 23 years.

Q 23 years ago did you have experience as an operating engineer?

A Yes.

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Q What was that experience?

A I was working on the Pennsylvania Thruway.

Q What were you doing there?

A I was oiling.

Q What happened then?

A I left there and went to Pittsburgh to work with another fleet. I travel a lot.

Q Did there come a time when you came to New York?

A Yes.

Q When was that, Mr. Jones?

A Early -- the year the New York Thruway came out, but I can't recall the year. I was in Nyack beyond the Tappan Zee Bridge, we had 20 miles from Spring Valley in Suffern.

Q Did you come over with the same employer that you worked for in Pennsylvania?

A Right.

Q Was that work within the jurisdiction of Local 15?

A At that time I think it was 105 out of Jersey. I am not sure.

Q When you came over to Westchester there was a different local?

A That is right.

Q 137?

A That is right.

Q Did you become a member of Local 137?

A 137; I transferred from Pittsburgh into 137.

Q Did you have any problem transferring?

A No.

Q Now, there came a time when you had some contact with Local 15. Did you start working under 15's jurisdiction?

A I was transferred. See what happened, the work was slacking up in 137. I went down to 15 because there was more work at that time, it was down in New York.

Q You asked for a transfer?

A Yes.

Q You got that transfer?

A Yes.

Q Did you have any trouble getting the transfer?

A Didn't have no trouble.

Q That was in 1951?

A Right.

Q From 1951 to date you have been working out of Local 15?

A Right.

Q Can you tell us what kind of treatment you have

gotten from the union in these 23 years?

A Well, the union treats me good. I don't have any trouble with the union.

Q Have you used the union for a source of getting jobs?

A Yes, sir. Sometimes I did and sometimes I didn't.

Q Sometimes you got the job on your own?

A Yes.

Q Have you experienced any discrimination in job referral?

A No, I have never run into it. I work all the way down the union and all the way up in New York.

Q Do you have any relatives in the union?

A No, sir.

Q Did you have any when you transferred in?

A No.

Q Any friends when you transferred?

A I had friends.

Q Before you transferred or after?

A Right.

Q At the time you transferred in were there other blacks in Local 15?

A It wasn't 15.

Q On the various jobs that you have worked at

throughout the 23 years, have you seen other blacks who were Local 15 members?

A Yes, I seen them on jobs, worked with them.

Q What type of work do you do generally, Mr. Jones?

A Well, maintenance, mechanical work mostly.

Q Any operating at all?

A A little sometimes.

Q Have you ever been assigned to well points?

A No, I didn't.

Q Never got a well point job?

A No.

MR. BRADY: I have no further questions, your Honor.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Jones, I believe you said you have been working under Local 15's jurisdiction between 1951 and the present, is that correct?

A Right.

Q Wasn't there a period of time that you left New York to work somewhere else between 1951?

A I did. I went to Canada about --

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Q The late 1950's or early 1960's?

A Right.

Q Where were you working in Canada?

A Niagara Falls, a powerproject.

Q Why did you go to work up in Canada.

A Well, there was a slack of work in Yonkers. I worked with Petrillo at that time. There was a slack in the work. We got laid off. You know how when you lost a job it shakes you up a little bit, you know, so I transferred up to the people I used to work for. See, I worked for DeFelice. He got a big job. I think it was a $50 million job up there, and I went up there with him.

Q You got fairly steady work in Canada?

A Right.

Q And at the time you still had your Local 15 book here, right?

A Right.

Q Mr. Jones, have you been working the last couple of months?

A Couple of months.

Q The last couple of months have you been working?

A I worked up to, I would say, I aint worked going -- let me see -- could be six months, I think. I ain't worked in about six months at least.

MR. GLASSMAN: I have no further questions, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q When you worked in Canada, Mr. Jones, how did you get that job?

A Well, through friends, DeFelice, they called me back.

Q That was an employer you had worked for?

A Yes.

Q Called you back?

A Yes, sir.

Q And you accepted the job?

A Yes, sir.

Q And how long were you in Canada?

A Well, I was up there, I don't know, about -- I stayed up there a pretty good while. I can't recall it, you know.

Q Was it a year?

A More than that?

Q Two years?

A I can't recollect. You know, it's kind of hard for me to, you know.

Q When you came back were you still able to get work out of Local 15?

A Yes, I went vack to Petrillo and worked

there. They had work. Then they got slack there and I come on back downtown.

Q You had no problem when you came back from Canada?

A Right.

MR. BRADY: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. BRADY: May I have a moment, your Honor?

THE COURT: Yes.

(Pause.)

R U F U S B R E W I N G T O N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Brewington, for the record, would you state your race?

A Afro-American.

Q And you are a member of Local 15?

A Yes.

Q How long have you been a member of 15?

A I have had a book for about 17 years.

Q Would that be in about 1957?

A '57.

Q At that time, Mr. Brewington, what type of work were you doing?

A I was working around the shops as a mechanic helper.

Q Were you in a union?

A Oh, yes.

Q What union was it?

A 731.

Q What international union is that?

A Well, that's a laborers union from 1948.

Q Since 1948?

A 1948.

Q And what kind of work were you doing with the laborers?

A Well, when I went to this job, to get a job, the master mechanic just picked me out and said, "I want you to work in the shop."

So I went in the shop.

Q You went in the hop as a laborer?

A That's right.

Q What were your duties as a laborer in the shop?

A My duties at the shop was to help out the mechanics, you know, with washing parts and replacing parts and just general mechanic work.

Q Did you learn mechanical work there?

A Yes, very much.

Q How long did you work in the shops?

A I would say about eight years.

Q And how did you happen to become a member of Local 15?

A Well, they suggested, "Why don't you try to get in 15?" but at the present time I was satisfied with what I was doing. I was making more money than the 15 man was making.

Q Were you?

A Yes. But I made more hours than they did.

Q Put in more hours?

A That's right.

Q But did you apply for membership?

A Yes, I did. I finally asked them.

Q And do you remember who you asked?

A I do.

Q Who was that?

A Mr. Thomas A. Maguire.

Q Did you have any problem getting in the local?

A No, not at all.

Q How soon after you asked for membership did you get membership?

A I would say about three weeks.

Q What happened to you then?

A Did you stay in the same job or move?

A Stayed right on the same job but my rate of pay went up.

Q Your rate of pay changed?

A Changed.

Q Did your duties change too?

A Yes, they did change.

Q What local did you become a member of in 1957?

A In '57.

Q And how long did you stay in 15A?

A In A? I just recall, I just recall. I just don't know.

Q You can't recall?

A I know we changed, though, but I don't know the date.

Q What job was that you were working on in '57

when you became a member?

A In '57?

Q When you changed from a laborer and got into the Local 15?

A Seagram Liquor Building, 54th Street and Fifth Avenue.

Q How long did that job last; do you recall?

A Tne or 12 months. Foundation, you know.

Q And after that did you seek work somewhere else?

A Yes, I did.

Q How did you get your next job?

A I went to the hall.

Q Did you sign a list in the hall?

A Yes.

Q How long were you in the hall before you --

A I would say three or four hours.

Q Three or four hours?

A Yes.

Q What kind of job were you sent to; do you recall?

A Yes, I do know. I was sent out as a fireman.

Q Did you have any experience as a fireman?

A Yes, I had experience as a fireman.

Q How had you obtained experience as a fireman?

A Well, back in 1950, as a laborer, I was a coal passer, you know, and if the fireman sneaked off I would take over, and I just knew how to do it.

Q The fireman gave you an opportunity to work on it?

A That's right. He would take a blow and I would take over.

Q Did you tell Local 15 that you had experience as a fireman?

A That's right.

Q How long did the fireman's job last?

A Well, I just went from job to job as a fireman for about ten years.

Q Were there periods of time between the jobs when you weren't working?

A Tell you the truth, I can't remember the period of time. I worked regularly.

Q Did the union refer you to all of these jobs?

A No. At the time I stayed with one company, Underpinning Foundation Company, for a period of 10 years, and when we moved from one job site to another job site, in return I would call the union and they

would okay it.

Q After the work with Underpinning, what job did you get then; do you recall?

A You mean from Underpinning?

Q After Underpinning.

A Oh, yes. I still could be working with Underpinning. I just didn't want to work with them any more.

Q What did you do afteryou left them; go back to the hall?

A Yes, went back to the hall.

Q Were you referred out to any work?

A Yes, that's right.

Q By the union?

A By the union.

Q Do you remember what the job was?

A I can't recall the jobs. I was just sent out.

Q From 1957 to date have you worked fairly steadily out of the union.

A I haven't lost two weeks for lack of work since that time.

Q And do you get fireman jobs? A lot of fireman jobs?

A That's right.

Q Have you ever gotten a well point job?

A Yes, I have.

Q About how many times would you say?

A Only once.

Q Once?

And were you unhappy to get that job?

A No. It was in our line of work. I was glad to get it.

Q Have you seen white men on well point jobs?

A Yes. There was four and myself made five.

Q Four white men?

A We made a crew.

Q Did you have any relatives in the union in 1957?

A No, I don't.

Q Did you then, in 1957?

A No.

Q Do you now?

A No.

Q Mr. Brewington, from your observations, are blacks referred to work on the same basis as whites?

A That's right.

Q Blacks receive the same rate of pay and benefits?

A That's what I know.

Q Mr. Brewington, you are an officer of the union, are you not?

A Yes, sir, I am.

Q What office do you hold?

A An alternate trustee.

Q Have you ever had the occasion to represent the union at any functions?

A Yes, I have.

Q What were those functions?

A I represented the union as a delegate to the 1968 convention in Miami, Florida.

Q Were your expenses paid by the union?

A It was paid by the union.

Q Any other times you have been a representative?

A Yes. I went in 1972 to Washington, D.C. to the International convention.

Q Again as a delegate?

A As a delegate.

Q Have you been satisfied with the types of jobs you have gotten out of the union?

A Yes, I have.

Q Have there been any occasions where you have had any grievances with an employer, asked the union to represent you or take up your battle?

A Never has.

Q No problems?

A Never.

Q On the various jobs that you have worked at throughout the years, have you seen other black members of Local 15 on jobs?

A Oh, yes.

Q What kind of jobs have you seen them doing?

A Well, here recently I had a black foreman on the job.

Q Which job was that?

A Costagna, here the new telephone building and the courthouse and the schoolroom.

Q What job are you on now?

A I am on the Perini North River job.

Q Are there blacks working there?

A Yes, rhere are.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q You betan as a mechanic's helper in 1948?

A Yes.

Q Do you remember the name of the contractor you worked with?

A Oh, yes.

Q What was that?

A John Rosenblum.

Q Is he still around?

A I don't know.

Q That was the name of the company?

A John Rosenblum.

Q Was that outside work or was that inside shop work?

A Around the shop.

Q How long did you work around the shop?

A Well, the big boom of the housing industry started around '47 and I worked around the shop on and off about seven or eight years.

Q Did he ever send you on outside work?

A No. I only went on the outside whenever the mechanic needed somebody to pick up something heavy which required two men.

Q You were working around mechanics all that time?

A Right.

Q What kind of equipment did Mr. Rosenblum have?

A He had heavy equipment, such as -- well, most of it was rental anyway, but it was rental bare, and he had to keep it up, such as bulldozers and payloaders and such as that.

Q Did you learn how to be a mechanic there?

A Oh, yes. Very well.

Q About how long did it take you to learn how to be a mechanic?

A Well, I don't know that. Some things I wouldn't tackle today.

Q Then in 1957 somebody suggested to you that you try to get into 15?

A That's right.

Q Do you remember who it was? Was it a mechanic in the shop or --

A No. Everybody said it, you know, because it seems to me that I was really liked and they hated to see me still work like that.

Q The people that suggested it were Local 15 men?

A That's right.

Q About that time you got into 15A?

A Yes, that's right. I never asked them until about three weeks, and then I made it.

Q Were those other men in 15A or 15C?

A 15. They was outside men.

Q They were outside men?

A Yes, it's different between a shop on the job site and a maintenance shop, you see. I mean the shop on the job site, that's what I was in.

Q It wasn't a maintenance shop?

A It is a maintenance shop, but on the job site.

Q You were out on a job site at that time?

A The shop was on the job.

Q I see.

That was in New York City?

A Oh, yes.

Q You said you had some experience as a fireman back in 1950?

A That's right.

Q How frequently did you get to work as a fireman?

A Every day.

Q How long did you do that?

A About a year.

Q Did you get a chance to operate any equipmnt back then?

A Oh, yes.

Q Frequently?

A Well, off and on. When they leave it laying around I would jump on it.

Q Was that that same year?

A That was during that same year.

Q You did that for about a year?

A Well, when I had spare time and the piece of equipment laying around I would jump on it, you know, and work it.

Q When you were working for Underpinnings you would ask the union for permission when you switched jobs?

A No. I had a book then.

Q You would call in to the union to tell them you were switching?

A No. I never switched. We just changed from one job site to another. We take the machine and all; just like we complete driving this job and we move to another job,and in the meantime

I would call the union to let them know where I am at but I was still with the same company.

Q And you are a trustee with the union?

A Oh, yes.

Q What are your duties as a trustee?

A Well, as an alternate at the present time, we just check, you know.

Q Do you get any salary from the union?

A No, I don't.

Q You are working with Perini now?

A Yes, I am.

Q Do you know whether that's a government job?

A I never investigated the job. Never asked.

MR. DEVORKIN: Nothing further.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Approximately how much did you make last year?

A I would say about $23,000.

MR. BRADY: Thank you.

Nothing further.

THE COURT: That's all. Thank you.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

T5

MR. BRADY: Mr. Henry.

V I C T O R H E N R Y, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Henry, for the record, what is your race?

A Well, I am Spanish and English. My mother is Spanish and my father was English.

Q Are you a member of Local 15?

A Yes, sir.

Q How long have you been a member?

A 1961.

Q At that time, sir, did you have experience in the line, in the craft?

A Yes.

Q What was your experience?

A Well, I used to work like around equipment all the time.

Q What was your first experience, Mr. Henry?

A Well, I really don't know. I have been working around so many different things.

Q Were you born in this country?

A No.

Q What country were you born in?

A In Santo Domingo.

Q In Santo Domingo did you have experience there, get experience in Santa Domingo?

A Well, I tell you this place where I was born, he have a lot of machinery working all the time, so when I born, that is what I see. I keep on going there in that place, a sugar plantation.

Q That is where this equipment was?

A Yes. They had everything.

Q Did you learn to repair that equipment?

A Well, I never had -- you see, the size, I couldn't do it because I was a kid.

Q How old were you?

A I born there. Since I born until I get out of there.

Q When did you leave Santo Domingo?

A 1956, something like that, make a trip over here.

Q You came to the United States?

A 1956 or 1957. I can't remember so good; somewhere around there.

Q Mr. Henry, did you come to New York then?

A Yes, sir.

Q Did you seek employment in New York?

A Yes.

Q What kind of work did you look for?

A Diesel mechanic.

Q Did you get a job as a diesel mechanic?

A Yes.

Q Had you had schooling in diesel?

A Yes, sir.

Q Where did you get schooling for diesel?

A In Los Angeles, California.

Q Did you obtain a job as a diesel mechanic?

A No, like a helper.

Q By whom were you employed?

A Well, first I was working for the Day Line, on sightseeing.

Q The sightseeing boats?

A Yes.

Q What were you doing for the Day Line?

A Mechanic's helper. When I apply like a mechanic, they won't give me a break, they say I was not qualified.

Q Were you a member of a union then?

A No.

Q Was there any union on that job?

A I don't think so.

Q How long were you working for the Day Line?

A About one year, something like that, maybe two years. I can't remember so good.

Q What kind of equipment were you working on?

A On yachts, those yachts that go around the Island.

Q The boats that go around?

A Yes.

Q Are you saying yachts?

A Sightseeing.

Q Did you work on the engines?

A Yes.

Q Why was it that you left the Day Line?

A They was not paying me enough.

Q How much were they paying you?

A $1.65 an hour.

Q What year was this?

A It is 1957, somewhere around there.

Q How many hours were you working?

A Almost around the clock.

Q Getting overtime? $1.57 an hour you got straight?

After you left the job, Mr. Henry, what job did you go to?

A I had a friend there, I told him my job was kind of rough, not making enough cash.

So he say I have a friend, try and go and see him, maybe he have something for you.

Q Who was the friend?

A Luciano.

Q A contractor?

A Yes.

Q Where were they located at that time?

A Over here in Pelham Bay, the end of Westchester Avenue.

Q Did you get a job with Luciano?

A Yes.

Q What were you doing with Luciano?

A I start like a helper with him, but I was making more money than I used to with the Day Lie.

Q How much did you make with Luciano?

A $2.40 an hour.

Q Was that a union job?

A I never know whether it was.

Q You didn't know?

A I never know anything about it until a couple of years later. They say there is a union and then start to come to my brain, you know.

Q That was the first time you had contact with Local 15?

A Yes, sir.

Q What was that contact?

A Well, from there they send me to another job and then I end up with a delegate.

Q What job were you at when you first saw a delegate?

A The delegate used to come to the shop but I never used to see him because all the time they have me in the field.

Q Who would have you in the field?

A The contractor.

Q Luciano?

A Yes.

Q When the delegate was there you were in the field?

A Yes.

Q Were they trying to hide you?

A It looks that way.

Q There came a time when the delegate saw you?

A I never know the full story. I was hired for a couple of years and I never knew.

Q But you got membership in the union, in't that so?

A Yes,sir.

Q Did you remain working for Luciano after that?

A Yes, I worked a couple of more years for him until he closed his shop there.

Q During that time were you under the union contract? The last few years were you getting union wages and benefits?

A I got everything all the time.

Q After that job stopped what did you do to obtain employment?

A I go to the hall and sign.

Q Were you assigned out to another job?

A Yes.

Q How long were you between jobs, do you recall?

A Well, I have been lucky all the time. I only stay a couple of days.

Q You were sent right out?

A Yes, sir.

Q Has that been true ever since you have been a union member?

A I have been living all these years without no problem.

Q Have any problems about referral to work?

A No, sir.

Q Have you ever beendiscriminated against by the union?

A No.

Q What is your present job?

A Maintenance, overhaul engines, anything in the mechanical field.

Q Were you originally in Local 15-C?

A Yes.

Q Are you still in 15-C?

A No. I have been transferred to 15.

Q Did you ask for that transfer?

A Well, they send me to a job which is supposed to be 15 guys and say the best thing is to sign in because the job here is 15. That is the way I got in.

Q Did you ever ask to go to 15 before that?

A I was not much interested, but it just came in.

Q It just worked out that way?

A Yes.

Q What job are you working on now?

A Van Cortlandt Park.

Q The Water Tunnel contract?

A Yes.

Q Are there other blacks on that job?

A They have quite a few there.

Q Any Spanish surnamed members or Puerto Ricans?

A They have a fellow with a name of Leon, but I don't know if he is Spanish or Puerto Rican.

Q DeLeon?

A I don't know if he is Spanish or what. That name sounds Spanish to me.

Q You have used the hall quite frequently for referral, haven't you?

A I beg your pardon?

Q Did you use the union to get jobs quite a few times?

A Yes.

Q In all these years is it your opinion that the whites are sent out on the same basis as other members?

MR. DEVORKIN: I object to the form of that question.

A I don't see the difference between one and the other.

THE COURT: All right, that has been asked many times. We will put it in the form you want. I will sustain the objection.

Q Mr. Henry, in your observation are minority members referred out on the same basis as white members?

A I don't follow those things.

Q You don't know one way or the other?

A Never paid attention to that.

Q You had no trouble?

A No.

Q Have you always received the union wages and benefits?

A That is right, without no problem.

Q Approximately how much did you make last year?

A I think about thirty-two.

Q Thirty-two?

A That's right.

Q 32,000?

A Yes.

MR. BRADY: No further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q How old are you?

A 46, something like that. Born in 1929.

Q When was it that you first got that job with Luciano?

A I would say about 1950, something like that.

Q When was it that you transferred into Local 15 from 15-C?

A I have been transferred over there in 1961.

Q Do you have your book with you?

A Yes, sir.

Q May I just see it?

A I don't know now, I am not sure. I don't know whether I put it now. I supposed to have it in my wallet. Maybe I left it in my other pocket.

Here it is (handing).

Q Thank you.

MR. DEVORKIN: May I have the Court's indulgence just one minute?

(Pause.)

MR. DEVORKIN: Mr. Brady and I will stipulate that Mr. Henry's date of initiation in 15-C was April 13, 1961.

MR. BRADY: I believe that is so.

MR. DEVORKIN: I have no further questions.

MR. BRADY: So I understand correctly, that last question was when he transferred into 15, was that his response?

MR. DEVORKIN: No. He did say that.

REDIRECT EXAMINATION

BY MR. BRADY:

Q When did you transfer from 15-C to Local 15?

A I would say about two or three years ago, two and a half years ago to three.

MR. BRADY: No further questions.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Daniel.

J A M E S D A N I E L, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Daniel, for the record what is your race?

A Black, Negro.

Q Are you a member of the Operating Engineers?

A I am.

Q What local?

A 15.

Q How long have you been a member of Local 15?

A Approximately two years and three months.

Q Prior to that time were you a member of any other union?

A Not really. I worked for 40 on permit, Local 40, Ironworkers.

Q How long were you on permit with Local 40?

A Almost three years.

Q How did you come in contact with Local 15?

A Well, through a friend.

Q Was your friend a member of 15?

A No, he wasn't. We worked for 40 and he said one day, "Let's go to 15's hall."

Q Do you recall his name?

A I think Clarence Jack.

Q Did he give you any reason why you should shape 15's hall?

A He said they have jobs and they give jobs when they have.

Q Is Mr. Jack black?

A Yes, he is.

Q Are you a licensed welder?

A Yes, I am.

Q Is that the type of welding you were doing with Local 40?

A Yes.

Q Work with any other locals around the City?

A 580.

Q Were you a member of 580?

A No, permit.

Q Is Local 15 the first local union you became a

member of?

A Yes.

Q And how long had you been working as a welder before you came to 15?

A About six, eight, ten years.

Q Eight to ten years?

A Yes. I worked on construction in Jersey and Maryland.

Q Now, do you recall about when it was that you came to Local 15, Mr. Daniel?

A Yes. It was in around June, 1971, the first time.

Q Do you recall where you went, where the hall was?

A It was on 15th street.

Q Who did you see there?

A I saw Mr. Tom Maguire, Jr.

Q At that time were there a lot of men in the hall?

A Yes, it was crowded.

Q Were they white and black?

A White and black.

Q Did Mr. Maguire ask you any questions?

A Not, I wouldn't say --

Q I mean about your experience.

A We looked around and we did not stay. That's

the first time I went to the hall.

Q Were there too many people in there?

A Too many people.

Q So did you come back.

A I went back in about November and --

Q In the meantime were you working out of Local 40?

A Yes, I went back to 40.

Q When you came back in November, what happened then?

A I got a job on Sixth Avenue. Central Park Contractors.

Q How long were you in the hall before you got the job?

A Just a couple of days. A few -- I think that day I got the job. I just walked in and I went and signed the sheet and then I went to Mr. Maguire and he says, "Let me see your license. Okay." Sent me out to the job.

Q Showed him your license and you went out?

A Yes, went out on the job.

Q You say that was Central Park?

A Central Park Contractors.

Q How long did that job last?

A A month.

Q This in 1971?

A '71, December.

Q After the job was over what did you do then?

A I wewnr back with -- went to Bethlehem Steel because there was no work; that was in Hoboken, New Jersey.

Q Did you go there directly on your own?

A Yes. There was no work in the hall. I went around the hall and there was no work.

Q How long did you wait in the hall before you went to Bethlehem?

A I don't think I stayed -- just one day. I went there.

Q Too many people?

A Too many people.

Q Did you get a job in Bethlehem?

A Yes, I did.

Q Is that a union job?

A Well, yes, there is a union there on the job site.

Q Some other local?

A Another local. That belongs to Jersey.

Q How long did you work with Bethlehem Steel?

A Roughly three weeks.

Q And did there come a time when you were again sent out by Local 15?

A Yes. I came back after that job was over. I came back and I was working with 580 but I kept in contact with Mr. Maguire and so one day he called me and he says, "I have a few days' work for you."

Q Why was it, if you were working out of Local 580, that you kept coming back to 15?

A Well, I am going to say that I like their policy. It's organized; you go and you shape, there is work, you go out; there is nothing, everybody goes out on the same basis.

Q And did 15 find a job for you?

A He did.

Q What was that job? Do you know?

A I went up to Bedford Park in the Bronx.

Q How long did that last?

A Just for two days.

Q Then what happened?

A I went back to my job, the other job I had.

Q 580?

A Yes.

Q Did Local 15 send you out again?

A Then I called him up again and I shaped the hall and he sent me out to Welfare Island, and from then I am working with them ever since.

Q Did you get your book on Welfare Island?

A Yes, while I was on Welfare Island.

Q How long were you out on Welfare Island?

A Roughly three weeks. You mean the job lasted?

Q Yes.

A Yes, about three weeks.

Q And since that time, Mr. Daniel, have you been obtaining your work out of Local 15?

A Yes.

Q You haven't gone back to 580 or 40?

A No, no other local.

Q And what's your observations of the referral policies of Local 15?

A If there is work, who is there gets the job.

Q Do you attend the union meetings, Mr. Daniel?

A Yes. I missed a couple.

Q Do blacks have the same rights at the meetings as whites?

A Yes.

Q What job are you presently on, Mr. Daniel?

A On Perini North River Associates. It's the North River.

Q How long have you been on that job?

A Two years and three months, or something like that.

Q Two years and three months?

A Yes.

Q Are there other blacks on that job?

A Yes.

Q What types of jobs are they doing, the other ones?

A They are welders, maintenance men, mechanics and what have you.

Q Have you ever been sent out on a well point job?

A No.

Q If you don't mind telling the court, approximately how much money did you make last year?

A $35,000.

Q 35,000?

A Yes.

MR. BRADY: Thank you.

No further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Daniel, I believe you stated you have worked for Local 40 and Local 580 and Local 15.

Were all those jobs as a certified welder?

A Yes.

Q Have you worked for any other unions in the City of New York?

A In the City of New York, not really.

Q In your experience is there a need for certified welders in the city?

A A need? Yes. You can't get a city inspected job or even the Port Authority without being certified.

Q Can you get other jobs without being certified?

A Yes. Small shops. Very small shops.

Q Do you know if there is a shortage of certified welders in the city?

A I have no idea about that.

Q You don't know?

A I don't have no idea about that. I am not in that position to know.

Q The first time you had contact with Local 15 I believe you said you went to the hall and you saw Tom Maguire and Mr. Murphy.

What conversations did you have with Mr. Maguire at that time?

A Nothing. I saw him.

Q Just saw him?

A No. I saw him and I recognized him and Mr. Murphy and we looked around. It was crowded and we left.

Q How did you know who they were, Mr. Maguire and Mr. Murphy?

A Well, they were sending out men and a couple said, "That's the delegate for us."

Q Somebody pointed them out?

A Yes, the Jack who took me there said, "That is Murphy and that's Maguire," and the other delegates.

Q Other guys were being sent out at the time?

A Well, very, very slow. We didn't stay very long at that time.

Q Did anyone ask you to sign up on the list?

A Well, I think we came in late that morning and we didn't sign any lists. But the other time I went back there is a list and you sign your name in.

Q The first job you finally got from Local 15 was the Central Park job?

A Yes.

Q Who sent you on that job?

A Maguire.

Q How long did that job last?

A A month.

Q Did you get a book on that job?

A No, I didn't ask. I didn't bother.

Q After that job ended you went back to the hall again.

A I just went down. It was crowded again and I went to Jersey, Hoboken. That's when I went to Bethlehem Steel.

Q When you went back to the hall that time did you see Mr. Maguire?

A Yes, I saw him.

Q Did you say anything to him?

A Yes, I told him, I said, "What's new? Is there anything?" And he said, "No. We are crowded, we have a lot of men, and if you want to shape it's

obviously up to you." So I chose to go find something else.

Q Andthen you went to New Jersey?

A Yes.

Q When was that that you went to New Jersey?

A Around January; December, January some times. It was getting cold.

Q Was that the end of -- yes, after Central Park.

Q And you were still a certified welder? Your license was in effect at that time?

A Yes.

Q When you went to Bethlehem did you do welding jobs for them?

A Yes.

Q What did you get paid by Bethlehem in New Jersey?

A If it's checks or cash?

Q No. What was your rate of pay?

A I think it's about $3.60 an hour, something like that.

Q That was less than you would have gotten in New York with--

A Oh, much less, much less.

Q How much money did you say you made last year?

A $35,000.

Q In '73?

A Yes.

Q You didn't make that much the year before, did you?

A Never, ever.

Q How much did you make the year before?

A The year before I was bouncing around. Imade roughly 18 or 16.

Q Do you know what you made the year before that?

A About the same thing.

Q You say you were bouncing around. What do you mean?

A Well, before you are here -- on this job couple of days you have to stay home because some steel is not ready or it rains. On the other jo , if it rains you lose a lot of time.

If it rains, like, 40 -- if it rains -- I worked on the Trade Center, and if it rained two or three days, wouldn't do any work.

Q Did you ever ask for any inside work when

it is raining?

A Oh, there was no inside work.

Q Excuse me?

A There was no inside work.

Q You didn't go back to the hall when it rained and try to get inside work?

A Oh, no.

Q In 1972 what unions were you working for?

A '72?

Q Yes.

A That's the time I went to Jersey, early '72. And then I went back to the hall when I came from Jersey and I was sent out to Welfare Island. I was working for 580 but I kept in contact with these gentlemen on the phone. They sent me to Welfare Island and I never worked for any other local ever since.

Q You had your book at that time?

A No.

Q After you got your Local 15 book did you still have times when you worked for Local 580 or Local 40?

A No, no.

MR.GLASSMAN: I have no further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

A S T O N M c E W A N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. McEwan, for the record, what is your race?

A $10.15 per hour.

Q Your race.

A I'm sorry. My race is Negro.

Q What is your age?

A Age 50.

Q Mr. McEwan, are you a member of Local 15?

A Yes, sir.

Q How long have you been a member?

A Since August of '69.

Q And in August of '69 did you have experience in the field at that time?

A Yes, sir. I am a mechanic by trade.

Q Where were you working in '69, prior to your contacting the union?

A With Westchester Diamond Truck as a service manager.

Q How long had you worked for Diamond Truck?

A Just close to two years before I decided to quit.

Q Did you come to Local 15 after that, right after that?

A Well, yes. I did, by virtue of I was driving my car along the Bruckner Boulevard and I saw the man operating the grader, stopped my car, went over to him and I asked him where is his local union because I am interested to get into heavy equipment locally.

He took out his book, gave me an address and whom I should see, one of the officers I should see. This time he gave me Tommy Garrity.

Q Was this man black or white?

A White.

Q Did you go that day?

A No. The following day I went down.

Q What happened?

A I walked in and asked for Mr. Tom Garrity, introduced myself, told him who I am and so forth, and right away he said, "Sit down," and he made a couple of phone calls and send me up to Edward Ehrbar in Pelham Manor.

Q How long did the job last in Ehrbar?

A Well, I worked there until, oh, I would say, I spent almost two years there too. Then I got my book during the process.

Q How long had you been at Ehrbar before you got your book? Do you recall?

A I went to Ehrbar, I would say, the latter part of May, early June, and I had my book in August.

Q Did you have any problems getting the book?

A No. None whatsoever.

Q At Ehrbar you were a mechanic?

A Yes.

Q You stayed there until what? '72?

A Yes, around that time.

Q Did you leave Ehrbar?

A Yes.

Q And did you go back to the hall?

A Yes.

Q Were you sent to a job?

A Yes.

Q What was that job?

A I was sent to -- no, just before I left Ehrbar -- after I left Ehrbar I went to -- I was laid off because things were getting slack and the usual thing, they would notify the union office that the things

are getting slack and they have to lay off.

So I called Tommy and told him I was getting laid off and he called me and told me, "I have a job for you."

So I went to Ram Equipment.

Q Is that a shop job also?

A Yes, shop job.

Q How long did you stay at Ram?

A About 11 months. I would say about 11 months.

I left Ram because I was having some difficulty with the people in the shop and I got mad and I walked out and I went and told Tommy Garrity and he called back and told them that he was sending me back, and whether they liked me or not they would have to keep me.

I told Tommy I don't want to back there because I may lose my temper. So he sent me to Durante over in Flushing.

Well, I stayed there for a while and I said, "I don't think I like this either," and Mr. John Murphy referred me to Welfare Island. It's a foreman's job there.

Q As a foreman?

A And I don't think I like it there either

so I didn't start it.

So he referred me--he said, "Okay, I'll find you a good job. What do you want?"

Q What didn't you like about Welfare Island?

A I don't know. I just didn't like the surrounding. It was my first time on the outsideand not knowing it's not like in the shop, where you have everything looking good.

So I was referred to Mr. Thomas Maguire, Jr. and he sent me up to Perini North River and I am there since.

Q And when were you sent to Perini North River?

A Maybe around May; March, April, May, around there. I am not quite sure.

Q Of this year?

A No. Of '72, I would say.

Q '72?

A Yes.

Q And you have been working there since?

A Yes.

Q What's your job there at Perini?

A Maintenance mechanic in charge of all the barges for all the equipments.

Q And have you seen any discriminatory practices because of race in Local 15?

A Not to my observation, sir.

Q Have you always gotten fair treatment?

A I have always.

Q And you have always gotten the correct wages?

A Yes, sir. I have no complaints.

Q Do you attend the union meetings?

A Yes.

Q Are blacks treated the same at the meetings?

A As far as I can see, there is no difference. All men are equal.

Q In your jobs in the shops have you seen other black members of Local 15?

A Yes. There are a lot of black members there, too.

Q I take it this Perini job is your first outside job?

A Yes.

Q On the Perini job are there other blacks there?

A Yes.

Q Black operators?

A Yes. Local 14 men, I would imagine.

Q Any small equipment operators that you know of?

A There is a possibility -- yes, I have seen black operators who do things like that around.

Q Black oilers on the job?

A Yes, a tremendous amount.

Q Other black mechanics?

A Yes.

Q Mr. McEwan, have you ever been assigned or sent out to a well point job?

A No, I have no experience whatsoever with that.

Q The job that you were sent to as a foreman on Welfare Island -- is that so?

A Yes.

Q But you didn't choose to take that job?

A No, I don't know, not me.

Q You didn't like the looks of the job?

A Yes. If I may add, I didn't realize what the outside was. I was used to being in shops where you have a nice little office and everything is all there and I didn't think I wanted it, but that is me. I just didn't want it. But from what I have learned now, I think I would accept it.

Q Mr. McEwan, if you don't mind telling the Court, approximately how much did you make last year?

A I think about 33,000 and change.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. McEwan, back in 1969 when you saw this fellow operating a grader, you had been a mechanic up to that point?

A Yes.

Q What kind of mechanic's work were you doing?

A My experience as a mechanic is over 30 years. I do general repairs of heavy construction, whatever it is.

Q Have you done heavy construction repairs before?

A Yes.

Q Before 1969?

A Yes.

Q Where did you do that?

A In Canada and in Jamaica where I was trained.

Q How long did you spend doing mechanic's work in Jamaica?

A I left for Canada at age 39 and I spent five years of training after high school. I would say 18 or 20 years, thereabouts. I don't have a specific record.

Q You were a good mechanic when you came to the States?

A Yes.

Q How old are you now?

A 50.

Q On this Perini job which you are on now, approximately how many 15 operators have you seen?

A I haven't taken a special count, but they have a tremendous amount of black guys operating rigs and so forth. I couldn't tell you exactly but somewhere about

two, three, four or five, but in there.

Q Somewhere between two and five?

A Over five.

Q Have you been on jobs at Perini when the Federal Contract Compliance officer came to the job?

A I don't know who these officers are, but from time to time you have officers come around checking, asking, with a long slip of paper I guess, and I assume it is so they can check to see how Negroes or whites or what are on the job. But I have no knowledge, really, who they are. I am just assuming that is what they are.

Q Those men that come on the job with the list, do they read the names off the list and ask people to raise their hand?

A No.

Q Are they checking to see who is who?

A Yes, they check and you say yes.

Q How frequently does this happen?

A Well, since I have been there it is about three or four times I have seen them.

Q Your name has been on the list?

A Yes.

Q They go around to each operator at the job?

A Yes, go to each equipment itself to check out

exactly who you are.

Q How much did you make in 1972, Mr. McEwan?

A Maybe about twenty, twenty-one. I have no special record. I could get it.

Q Roughly?

A About that, twenty.

Q In 1971 how much did you make as an engineer?

A Around eighteen, I think, seventeen or eighteen.

MR. DEVORKIN: I have no further questions.

MR. BRADY: I have nothing further.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Brown.

J O S E P H B R O W N, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Brown, for the record what is your race?

A Black American.

Q How old are you?

A 30.

Q What is your present job?

A Maintenance foreman.

Q Where are you maintenance foreman?

A 122nd and Second Avenue.

Q By whom are you employed?

A Silverblatt.

Q S.S. Silverblatt?

A Right.

Q How long have you been a member of Local 15?

A I transferred into 15 I think the early part of 1971.

Q 1971?

A Yes.

Q Had you been a member of some other local before that?

A 137.

Q That is the Westchester local?

A Right.

Q Did you have any problem transferring from Local 137?

A No, no problem.

Q I presume that you came down with an employer?

A Right.

Q How long was your first job, do you recall? When is the first time you went to Local 15 for a job referral?

A That was after I walked away from a crane on 61st Street. I came down with a contractor as a crane operator.

Q As a crane operator?

A Yes.

Q What happened on the job?

A I stayed there about three months. The City Inspector came down.

Q The City Inspector came? You weren't licensed?

A No.

Q Did you know you had to have a license?

A Up in Westchester we didn't.

Q What happened when the City Inspector came?

A I told him I left it in my car, so I took a walk.

Q Did you come back?

A I came back after they put a licensed man on.

Q Did you continue to work on that job?

A I went to work as a fireman.

Q On the same rig?

A Yes.

Q How long did that job last?

A I was with that outfit going from job to job.

Q Were you moving with the outfit?

A Yes.

Q What was the outfit's name?

A Underpinning & Foundation.

Q When did you leave Underpinning & Foundation?

A 1973.

Q Where did you go in 1973 when you left there?

A I went to S.S. Silverblatt.

Q Did you get that job from the union?

A Yes.

Q That was as a maintenance foreman?

A Yes.

Q Was that the first time you used the hall for referral?

A No, I used it before in between layoffs.

Q Between layoffs from Underpinning?

A From Underpinning.

Q Were you able to get referred out these different times?

A Yes.

Q Tell me, when you were on this job in the 120's, is that when you transferred over?

A I don't recall if it was -- there was flatland, one of them places. I don't know which one.

Q But you got your book in 1970?

A Yes.

Q During these times that you were seeking referral, that was in between layoffs with Underpinning?

A Yes.

Q What was the longest layoff you had with Underpinning?

A I had one about four months.

Q During every layoff were you able to get a job out of Local 15?

A Yes.

Q What was the type of jobs you were sent out to, Mr. Brown?

A North River as a driller.

Q A well point job?

A No, caisson job.

Q Operating a drill?

A Yes.

Q How long did that job last?

A Until I decided to quit, about four months.

Q You went back to Underpinning?

A Yes.

Q What other jobs were you sent out to?

A In between layoff I had a well point job.

Q When was that?

A This past year.

Q Is that the only well point job you had?

A That is it.

Q Was there one gang or more than one gang on well points?

A We had one gang.

Q What was the racial composition between whites and blacks?

A We had three blacks and two whites.

Q Were you unhappy to get that job?

A No. It was a rest period.

Q What did you say?

A It was a rest period.

Q Since the time you have been in Local 15 have you experienced any discrimination because of your race from the union?

A No.

Q From your observation are blacks referred out on the same basis as whites?

A Yes.

Q On the various jobs you worked on have you seen black men employed on these jobs?

A Yes.

Q Have you seen black operators, Local 15 men?

A Yes.

Q Oilers who are black?

A Yes.

Q And mechanics?

A Right.

Q At the time you transferred over did you have any relatives in the union?

A No.

Q Did you know anyone in the union?

A I had a friend.

Q Was he a member of Local 15?

A Yes, he was a member of Local 15.

Q What kind of work was he doing?

A A fireman uptown.

Q Mr. Brown, approximately how much money did you make in 1973?

A In the neighborhood of thirty, thirty-five thousand.

MR. BRADY: No further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Brown, you were working for Underpinning & Foundation in Westchester County?

A Yes.

Q Did there come a time when they had a job down

here in New York City?

A Right.

Q Now, that was on 61st Street?

A Right.

Q Did a whole crew from 137 come down to New York City?

A No. I was the only one that came down.

Q Were you operating a crane? What type of crane?

A It was 802 Lima piledriver.

Q How soon after you were on the job did the Inspector come over?

A About three months.

Q You said, I believe, that in Westchester you do not need a license to operate a crane and hoisting equipment, is that correct?

A At that time we didn't need them.

Q Do you need them now?

A I think it is a State now.

Q I take it after your conversation with the Inspector you took a walk, as you described?

A Yes.

Q How long did you take a walk?

A Until they got a licensed man down.

Q Who put you on as a fireman?

A One of the Underpinning supers, Jimmy Reilly.

Q Was that job supervised by a fellow from Underpinning?

A Yes.

Q Did they have a foreman on the job as well, do you recall?

A Underpinning?

Q Yes.

A He was the foreman.

MR. KENNEDY: I have no further questions.

BY MR. GLASSMAN:

Q Mr. Brown, I would just like to go back over your history before you came to Local 15.

You said that you were working with Local 137 in Westchester?

A Yes.

Q How long did you work for 137?

A With a book I worked for 137 about a year, 1970.

Q The year of 1970?

A Yes.

Q How long did you work up there without a book?

A About two years.

Q What kind of work were you doing up there?

A I was a dozer operator for a non-union guy.

Q Any other work you were doing up there?

A In Westchester?

Q Yes.

A Working at two factories.

Q Any other work for the local union up there?

A No.

Q When did you actually join Local 137, if you remember?

A Six months, 1970.

Q Do you know do they have two locals of Operating Engineers in Westchester?

A I think it is one local.

Q One local does the same work as Local 14 and 15 in New York City?

A Yes.

Q How did you first hear about work in New York City?

A I was in Texas and I had a cousin came down and he was telling me how great the work was. So I gave up my job and came up here.

Q How did you get your first job in New York City?

A By going to this contractor.

Q Underpinning?

A No, Belino Brothers.

Q Had you worked for this contractor in Westchester?

A Yes.

Q What was the first job he put you on in New York City?

A 61st Street.

Q What kind of work was that?

A On a piledriver.

Q How long did you work on the piledriver?

A Until the Inspector came up.

Q That is the job where the Inspector came up?

A Yes.

Q The foreman on that job, do you know if he is a member of Local 14?

A The foreman?

Q Yes.

A No.

Q You don't know?

A No. He's from the company.

Q Was there a master mechanic on the job?

A Not at that time, no.

Q You said during a layoff from Underpinning, I believe, that you went to work at the North River.

A Yes.

Q What is the name of the contractor you worked for there?

A Spencer, White & Prentis.

Q Is that a subcontractor for Perini?

A Yes.

Q Is that a government job?

A I think it was a federal job.

Q Where is the present job you were working on?

A The present job now?

Q Yes.

A 122nd and Second Avenue.

Q Is that on the Second Avenue subway?

A No. A building.

Q What kind of work is that?

A It's a building.

Q What is the name of the contractor?

A S. S. Silberblatt.

Q You said you have seen black oilers working in the union?

A Yes.

Q What job sites have you seen them?

A Just about all over the city.

Q Can you name them for us?

A What?

Q The job sites you have seen them on.

A Well, I've seen them on the North River.

Q That's the Perini job?

A Yes.

I've seen them when I was at Welfare Island. I've seen them at Starrett City. I've seen them in Coney Island.

Q What jobs at Coney Island?

A Well, they were doing piles for the Underpinning out there.

Q All those jobs government jobs, do you know?

A No, I don't know.

Q You said you were a member of Local 15A before you were a member of Local 15?

A Yes.

Q When did you join Local 15A?

A I think it was about a month, two months.

Q When was that?

A About a month or two months after I got the transfer.

Q And when was that?

A That was in '71.

Q When did you get your Local 15 book? When did you transfer from 15A to 15?

A 15A to 15. They keep you -- see, I went in as a fireman and they kept me in 15A until I found out how to operate.

Q How long did it take before you went from 15A to 15?

A I think about a month, month and a half.

Q Do you know if that's the usual practice?

A I don't know.

Q You said you made 30 to 35 thousand dollars last year. Do you know how much you made in 1971?

A Roughly 15 to 18 thousand.

Q You said you don't have any relatives in the union?

A No.

Q Do you have any relatives in Local 14?

A No.

MR. GLASSMAN: No further questions.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Just so the record is clear, Mr. Brown, the job that you "took a walk on," you were employed by Underpinning at that time, isn't that so?

A Right.

MR. BRADY: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

R A Y E A L H A L T A U F D E R H Y D E, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. H, for the record, what is your race?

A Black.

Q And are you a member of a local union?

A Yes, I am.

Q Which local?

A 15A.

Q How long have you been a member of Local 15A?

A In April of 1973.

Q At that time, in April of '73, did you have some experience in engineering work?

A Oh, yes, I did.

Q What was your experience?

A I had roughly 12 years' experience.

Q Doing what kind of work?

A Operating and maintaining.

Q Heavy construction equipment?

A Right.

Q Would you describe to the court, please, your first contact with Local 15?

A My first contact with Local 15 was in the year 1972, the month of August.

I happened to learn about the union. I went personally and I spoke to one of the delegates.

Q Do you recall to whom you spoke?

A I spoke to a Mr. Murphy.

After I did, he referred me to the school they had to take a test.

Q Is that on Lefferts Boulevard?

A Right.

Q And did you take a test there?

A I did.

Q And what was the result of the test?

A I passed the test.

Q What did you do then?

A I went to the hall which I was sent out on a job as a dozer operator.

Q How long did the first job last?

A It was roughly 14 weeks.

Q And what was that job? What were you doing?

A I was a dozer operator.

Q After 14 weeks did you go back to the hall?

A Well, my first 14 weeks working I was on a permit. I was not in possession of a book then so I went to the hall in February. I did not go January. I got laid off --

Q You did not go back?

A I did not go for a month.

So when I went there in February I stayed around a couple of days. Most of us were in because in the winter the excavation is slow.

Q Were there a lot of whites in the hall at that time?

A Mixed. White, black, Spanish.

Q Did there come a time when you did get a job?

A Well, I stayed around for maybe three days and I was sent out.

Q What job were you sent to?

A I was sent by the Riverside Drive in the Bronx to operate loader.

Q And do you recall for whom you were working at that time?

A Pegmo Construction.

Q How long did that job last?

A Four days.

Q What happened after that?

A I went back to the hall. I spent one day.

Q Were you sent out again?

A Yes.

Q And what type of work were you sent on?

A I think it was a backhoe.

Q And for whom were you working, if you recall?

A That I can't.

Q How long did the job last?

A Couple of days.

Q Back to the hall again?

A Right.

Q Were you sent out to another job?

A Yes.

Q What type of work were you referred to?

A Well, I am always an operator, so it's a piece of equipment. It's either a backhoe, a loader or a dozer or something like that.

Q Is every job that you have gotten from 1972 to date been as an operator?

A Right. With the exception of one.

Q What was that?

A Heaters.

Q Heaters?

A Yes, space heaters.

Q And when was it you got your union book?

A In April, 1973.

Q What job were you on then? Do you recall?

A I was on a job by the Brooklyn-Queens Expressway working for Gallucci as contractors. I think it's a Con Edison job or something like that.

Q At that time did you request the book or did someone ask you to get the book or how did it work?

A Well, I stayed on the job for, I think it was,

roughly a month, and I was called by Mr. Donny Murphy. At least I got a message that I should call him.

I called him and he asked me if I was in possession of a certain amount of money for my initiation fee and I was supposed to be at 14th Street at the headquarters on a Thursday.

Q And is it then when you obtained your book?

A Right.

Q Now, you are a member of Local 15A?

A Right.

Q To your knowledge, are the rates of pay for Local 15A the same as Local 15?

A Yes, I should think so.

Q So all your jobs have been operating jobs except for the heater job?

A Right.

Q And how long did the heater job last?

A Well, it lasted from December to March. From December of '73 to March of '74.

Q Can you tell us, please, how would you describe the heater job? Is it a good job?

A I think they are good jobs.

Q Is the work hard?

A Well, not like running the machines.

Q You were, I assume, happy to get that job?

A Sure I was.

Q In your experience in the union have you experienced any discrimination at all?

A I've never.

Q And do you attend the union meetings, sir?

A Quite frequently.

Q Would you say that the blacks are treated on an equal basis with the whites at union meetings?

A I would.

Q Blacks receive the same rates of pay and benefits, do they not?

A Yes.

Q The first time that you went to the school, was that the only time you have been at the school, by the way?

A Yes, sir.

Q One day?

A One day.

Q How long a period of time were you at the school that day?

A Well, I would say that I have been at the school for four hours. After I was tested I was not familiar with backhoes so one of the instructors told

me since I am there to get myself familiar, which I stayed on another three hours.

Q Did you consider the test to be a reasonable test?

A Oh, sure.

Q Was it a difficult test?

A No, sir.

Q If you don't mind telling the court, approximately what were your earnings last year?

A I would say roughly 15,000.

MR. BRADY: Thank you.

I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. H, did you go down to the union for the first time in 1972?

A Yes, sir.

Q Before that had you had experience as a heavy equipmbent operator?

A Yes, I did.

Q About how many years?

A Ten to 12 years.

Q Where did you obtain that experience?

A In Jamaica, West Indies.

Q Would you tell us the kind of machinery you operated in Jamaica?

A Front-end loaders, dozers, scrapers, cranes, drag lines, shovels, graders.

Q How about backhoes?

A Never.

Q Did you operate power shovels?

A Yes, I can.

Q What kind of cranes did you operate?

A P & H, Limas, Marions, Americans, Bucyrus Eries.

Q How large were those cranes?

A I run up to a 200-ton dragline.

Q How long a boom?

A Well, the dragline I was on was 140 foot. The crane was 160, plus 30 feet of jib.

Q What kind of work did you do at that machinery in Jamaica?

A On which type of machinery?

Q Well, take the cranes for example.

A Oh. I worked for E. N. Wolcott as steel erectors, process plant engineers.

It was one of Alcoa's jobs.

Q Help erect steel with the crane?

A I did the work as an operator with the crane.

Q It was laying the structural steel on a building?

A Right.

Q What about with the dozers or the graders?

A Excavation, like roads, landscaping, railroads, dredging.

Q Would you say that that work is similar to the work you have done in New York City, similar in difficulty?

A Well, it's a lot more difficult in New York City when you are working on the streets with the cars and stuff like that.

Q The cars make it more difficult?

A And pedestrians too.

Q How did you first find out about Local 15?

A Well, I learned about Local 15 through a fellow I met.

Q Who is he?

A I didn't get that.

Q Who was he?

A Well, this was how we met. When I came

to this country first I was working out of the local for two months, and his name I don't know but I figure he is a union man, so he came to me and he asked me if I had a book which I had not. So he told me it can't be -- you know, it can't be that way.

So I figured the best thing is for me to go by the union and have things straight.

Q Was that in 1972?

A Yes, sir.

Q How had you found that job?

A I shopped around.

Q Do you remember the name of the contractor?

A Excavating Industries.

Q What kind of machinery were you operating for that contractor?

A Loaders, dozers.

Q You had been there two months?

A Yes.

Q After this 15 man challenged you did you have to leave the job?

A Sure I did.

Q Then you had to go down to the hall?

A Maybe two weeks after.

Q You finally went down to the hall?

A Yes.

Q Who did you speak to at the hall?

A Mr. Don Murphy.

Q What did you say to him and what did he say to you?

A I told him my qualifications, which he told me that's all right; "A lot of guys come here and say they can do this and do that. You will have to take a test."

So I went and took the test.

Q Did you tell him what had happened to you at the job you were working on?

A No.

Q You went to the school on Saturday morning to take the test?

A Right.

Q Which piece of machinery did the give you a test on?

A A dozer and a crawler-loader and a mobile loader, a wheel-type loader.

Q I am sorry. I didn't hear the last one.

A You have two types of loaders, a crawler and a wheel-type or rubber tire.

Q A track or a rubber tire?

A Both.

Q And the other piece of machinery?

A A dozer.

Q When you were given the tests were you given any instructions in terms of performing?

A Well, I was told what was to be done.

Q What did they say?

A I was supposed to load the truck; I was supposed to grade the place off.

Q And were you told to take a test on a back-hoe?

A Yes, I was.

Q But you hadn't worked the backhoe before?

A No.

Q Then as I understand it you actually went up andlearned the backhoe in about three hours?

A I did not learn the backhoe in three hours.

Q What did you do in the three hours?

A I got myself familiarized with the type of operations.

Q Was that very difficult or was it easy?

A Well, I was not used to it, I could say, so, naturally, it was a little stiff, I would say.

Q How long did it take you to become familiar

with the backhoe?

A Not very long.

Q Were you able to do it that afternoon?

A Well, not as a man who has been doing it for over the years but being a piece of equipment, naturally I could manage it.

Q But you could manage the piece of equipment?

A Yes. I was not that speedy but I could.

Q That's when you graduated? That's when you completed your test, that day?

A Oh, yes.

Q Were you sent back to the hall after you completed your tests?

A Right.

Q Were you given a union book after you passed your tests?

A No, sir.

Q Did anybody say anything to you about a union book?

A Well, you have to be --

Q At that time. That's all I am wondering about.

A No, no, no.

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Q So you went back to the hall?

A On a permit.

Q Did they tell you you were on permit?

A Yes, they did.

Q How long did you wait in the hall for your first job?

A The first job, a couple of minutes.

Q That was the dozer job?

A Yes.

Q You stayed there 14 weeks?

A Right.

Q Do you remember which month of 1972 it was that you took your test at the school?

A It was between July and August.

Q Some time in August you received the dozer job?

A Right.

Q Did you get your union book while you were on the dozer job?

A I got my book in the year 1973, April.

Q Did you get it while you were on the dozer job?

A No.

Q After the dozer job did you go back to the hall?

A Right.

Q How long did you wait in the hall for your next

job?

A Well, to be on the level, I would say in the wintertime things are kind of tight for all trades, you know, in the excavation and industry.

Q How long did you wait?

A I did not go in until February.

Q After the dozer job you didn't go back to the hall?

A No, I stayed off.

Q Then in February you went to get these jobs that were a few days here and there?

A Right.

Q That lasted until April?

A I got my book in April.

Q When you got your book?

A Yes.

Q How long did you work on permit from Local 15 before becoming a member?

A From August until April.

Q About eight or nine months, approximately, is that right?

A Well, your calculations.

Q How much money did you make in 1972?

A Roughly -- on the union job you are saying?

Q As an engineer.

A I would say maybe seven or eight thousand.

Q How much did you make in 1973?

A Roughly 15,000.

Q Did you work as an operator all year in 1973?

A Until December.

Q Are you employed now?

A Yes, I am.

Q Who do you work for?

A Michael Parisi.

Q Where is that job?

A The Fire Training Center on Ward's Island.

Q How long have you had that job?

A Going to five or six weeks.

Q Is that a City contract job, do you know?

A It is the Fire Training Center.

Q Building it for the City?

A Right.

Q Before that job what job did you hold?

A I was with Fitzpatrick-Schavonne on the Battery Park City job as a loader-operator.

Q Do you know if that is a government job?

A I couldn't say.

Q Did you ever see any signs that say Economic

Development Corporation?

A I don't know. I can't recall.

Q Did you ever try to get a job as a crane operator?

A No.

Q Have you ever worked as an oiler on a crane?

A Two weeks.

Q Do you have any desire to be a crane operator in New York City?

A Well, maybe in the later days. I don't know.

Q Anybody tell you how to go about doing that?

A No, sir.

MR. DEVORKIN: I have no further questions.

BY MR. KENNEDY:

Q Sir, have you ever taken a New York City license examination to operate cranes?

A No, sir.

Q Do you know that one exists?

A Yes.

Q How did you become aware of that, sir, of the examination?

A Well, I happened to hear the fellows talk about it.

Q The operators on the cranes?

A No.

Q Who?

A Like the cherrypicker operators.

Q You have never gone down to take that examination at all?

A No.

Q Do you have any desire to become a member of Local 14?

A Maybe.

Q Maybe?

A Yes.

Q But you never put in an application, have you, sir?

A No.

MR. KENNEDY: I have no further questions.

MR. BRADY: I have one question, if I may ask it from here.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Approximately how much money did you make to date in 1974, do you know?

A No.

MR. BRADY: No further questions.

THE COURT: Thank you, you are excused.

(Witness excused.)

THE COURT: We will adjourn until 2 o'clock.

(Luncheon recess to 2.00 P.M.)

- - -

AFTERNOON SESSION

(2:00 p.m.)

K E I T H R E N F O R D W A T S O N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Watson, for the record, what is your race?

A I am black.

Q And are you a member of the International Union of Operating Engineers?

A Yes.

Q What local?

A 15A.

Q How long have you been a member, Mr. Watson?

A Since 1968.

Q Prior to becoming a member did you have experience in that field?

A Yes, I had experience.

Q What was your experience?

A I would say about 12 years before with that type of work.

Q Where was most of that work done?

A Before I came here. I am originally from

JamaICA, West Indies.

Q Were you a mechanic?

A In Jamaica, yes.

Q When did you come to the United States?

A Why did I came.

Q When.

A I came here in '66.

Q Did you look for work in New York at that time?

A Yes. First, when I came I didn't came here permanent first. So I went to school.

Q You went to school here?

A Yes.

Q What school did you go to?

A Roberts Technical.

Q What did you study there?

A Air conditioning first.

Q Were you working here then?

A Yes. I worked for Bayer Cadillac in Long Island City first.

Q Is that as a mechanic?

A Yes.

Q Bayer Cadillac?

A Yes.

Q How long did you work for Bayer Cadillac?

A About, roughly, two years.

Q Where did you work then after that?

A After that I got a job in Jersey with a construction firm, nonunion.

Q How long did you work in Jersey in construction?

A About a year and a couple of months.

Q A year and a couple of months?

A Yes. I didn't remember exactly how long but I imagine it was just over a year.

Q That would bring you up to 1969, would it not?

A No. '68.

Q Yes, I came in the local in '68, later on in the year.

Q What was your first contact with Local 15?

A Well, I had a friend that was in the local before and he told me about it so I went down there to 14th Street -- 15th Street.

Q Do you recall who you spoke to?

A First time I been there I spoke to Mr. Johnny Murphy.

Q Did you tell Mr. Murphy what experience you

had?

A Yes.

Q What did he say to you?

A He tell me to come back in two weeks' time.

Q Did you do that?

A Yes, I went back in two weeks?

Q Did he tell you any reason why you were to come back in two weeks' time?

A He told me work was a little slow and I should came back then.

Q When you came back in two weeks what happened then?

A Tell me to stick around in the morning, get there at 7 o'clock and he'll try to see what he can do to help me.

Q Did you sign the list there?

A Yes.

Q Were you sent on it?

A I was sent out in about four or five days after.

Q Four or five days after?

A Yes.

Q Do you recall what type of job you were sent out to?

A I was sent out as a maintenance man in Brooklyn.

Q Do you recall how long that job lasyed?

A Say about three weeks to four weeks. Roughly, I don't have the exact time.

Q Did you come back to the hall again?

A Yes, I came back to the hall.

Q How long did you stay in the hall before you were referred out again?

A I would say roughly maybe two or three days.

Q And do you recall what job you were sent to then?

A Sent to H. O. Penn Machinery.

Q How long did you stay at H. O. Penn?

A Between 10 and 11 weeks while a guy was on vacation.

Q Covering a vacation?

A Yes.

Q Did you then come back to the hall?

A Yes.

Q And were you sent out again?

A Yes. I was sent out in less than a week after I came there.

Q What kind of job?

A Maintenance again.

Q How long did that job last?

A That job lasted about a year, near a year and a half.

Q Some time during that time did you get your book?

A Yes, I got the book when I was there about, just as I leave H. O. Penn.

Q Just when you left H. O. Penn?

A Yes.

Q And after the year-and-a-half job -- by the way, where was that job, the year-and-a-half?

A Welfare Island, in the tunnel job across there.

Q What job did you have on Welfare Island?

A Being a maintenance man.

Q Mr. Watson, have you ever been signed out as a foreman?

A Yes, I been.

Q How many times?

A Three times.

Q What is your present job?

A I am working at Jersey Drill, and that's on the North River job now.

Q North River?

A Yes.

Q What are you doing there?

A Maintenance.

Q During the last four or five years that you have worked out of the union have you ever been assigned to well points?

A Yes.

Q About how many times?

A Between three and four times?

Q Were you unhappy to get that job?

A No. It doesn't matter as long as you work. It's the most important thing to me, work.

Q Were there white men working with you on the well point jobs?

A Oh, yes. Every time I been on the jobs I had two white and two colored or maybe three white and one colored.

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Q Did you ever work with a fellow Les Stevenson?

A Yes. He came on a job, Spencer, White & Prentice. He came in a few days. I was a foreman on that job.

Q Were you a foreman on that job?

A Yes.

Q Have you ever attended the Local 15 Training School?

A Yes, I have been there.

Q When did you go to school?

A I think it was 1972, late 1972.

Q Before going there did you have any experience on operating heavy equipment?

A Yes. I have been repairing them, so I fool around, but I wanted to get good on it, so I go to the school.

Q I take it you had never had a job where you were paid to operate the equipment before that?

A No, not before.

Q How long were you in the school?

A About a year and three months.

Q Did you pass the test?

A Yes.

Q Did you graduate?

A Yes.

Q Since that time have you been assigned to any jobs operating equipment?

A Yes, I have been on one job. I really don't like it. I would rather stay on maintenance.

Q You prefer maintenance?

A Yes.

Q Have you ever referred any other men to the union?

A Yes, lots of guys.

Q Did you refer Mr. Scott?

A Yes, I took him out to the school.

Q What is his first name?

A Arbor Scott.

Q Can you tell us what Mr. Scott's experience was that you know of?

A I know him a long time before I even start in repairs. He has been in every company in Jamaica. He came here, so I took him out to the school and introduced him to Mr. Dan Murphy and give him a test.

Q He was tested at the school?

A Yes, he passed the test the first day.

Q He passed the test?

A Yes.

Q What happened to him after he passed the test?

A Then they tell him to come down to the hall on Monday and he went down Monday morning and he was sent out by 8 o'clock by Tom, Jr.

Q The first day he was back in the hall?

A Yes, I remember. I took him to the job because he didn't know where it was.

Q Do you know what he was sent to operate?

A 977 loader.

Q Do you know if he is working fairly steadily?

A Yes, he got his book now, too.

Q In the years that you have been in the union and attended union meetings, have you experienced any racial discrimination from the union?

A No, sir, I never have.

Q Do blacks receive the same rate of pay as whites?

A Yes.

Q The same benefits?

A Yes.

Q From your observations are blacks referred out to work on the same basis as whites?

A Yes, just the same.

Q Has there ever been an occasion where you have been referred out ahead of white men?

A Lots of times.

Q Would you tell the Court approximately much money did you make in 1973?

A I make about twenty-seven to twenty-eight hundred.

Q 2800?

A Yes, 2800.

Q Or thousand?

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A Thousand, 28,000.

Q About how much did you make in 1972, if you recall?

A About twenty-two.

Q 22,000?

A Yes.

Q On the jobs that you have worked, Mr. Watson, have you seen other members of Local 15, black members?

A Lots of jobs, even the job I am on now.

Q What are they doing on that job?

A I know guys on that job, black man, ran a rig, welder, maintenance, operating, everything.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Watson, when did you become a member of Local 15?

A I got my book in 1968.

Q Do you have your book with you?

A I mailed in the stub to pay my dues.

MR. GLASSMAN: I would like to ask Mr. Brady if we can check the union records as to his admission date? I think the records provided earlier have a different date.

MR. BRADY: Yes, I will check that for you. Whatever the date is we will stipulate to it.

Q Before you came to New York about how many years' experience did you have?

A Between 10 to 12 years in Jamaica.

Q Mostly maintenance experience?

A Yes, mostly.

Q Is that good experience?

A Yes.

Q In the New York area what was the first job you went to as a maintenance worker?

A In the union?

Q In the United States in the New York area.

A Before I got in the union?

Q Yes.

A I was working at Bayer Cadillac, Long Island City.

Q What kind of work?

A Mechanic.

Q When did you find that job?

A About three months after I came here.

Q What year was that?

A I came here in 1966.

Q How did you find that job?

A I had a friend working nearby and he told me I should come to there, there are a lot of garages, and check it.

Q This was as a garage mechanic?

A Yes.

Q How long did that job last?

A It is over a year.

Q You weren't in any union at that time, were you?

A No.

Q Do you know about what rate you were paid at that time?

A I was making about $3.50 an hour, $4, something like that.

Q Where was the next job you worked at?

A In New Jersey, Bergen Street.

Q What kind of work was that?

A Heavy construction work.

Q What were you actually doing?

A Maintenance.

Q Was that in the jurisdiction of another union?

A No, it was a non-union outfit.

Q How much did you get paid on that job?

A I was making about $6.50 an hour.

Q What made you go to New Jersey to get a job? Why did you go to New Jersey to get a job?

A I know some guys working over there and they told me this guy needs somebody to work, so I leave the garage.

Q Where did you live at that time?

A Patchon Avenue, in Brooklyn.

Q Were you interested in getting work in New York at that time?

A Yes.

Q Did you try to get any work in New York at that time?

A After I leave the garage and get work over in Jersey, I stay in Jersey until it was time to go down to the union. I had that friend in this local.

Q The first time you went to the union I believe you said Johnny Murphy told you to come back in a couple of weeks?

A That is right.

Q Did he ask you to sign any list at that time?

A Not the first time.

Q When was it that you worked for H.O. Penn?

A It was in 1968, late 1968, going into 1969.

Q Was that between 1968 and 1970?

A Yes, between 1968 and 1969.

Q About how long did you stay on that job?

A Between 10 to 11 weeks.

Q I believe you testified you got your union book when that job ended?

A Yes.

Q What union did you get a book in at that time?

A First, in 15-C, and then I got 15, in 1970 I get a 15 book.

Q How did you actually get that 15-C book?

A In the shop I got a C book.

Q When you were with H.O. Penn?

A Yes.

Q After you were there about 10 or 11 weeks?

A Yes.

Q How did you actually get it, did you ask anyone for it?

A Garahty, he is in charge of the shop, Tom Garahty.

Q He is a union delegate?

A Yes, in charge of shops.

Q Did he come to the job or what happened?

A I called him and he told me to wait a while. When I was there five weeks I called him and he said wait a while and another two weeks I call him and he said okay.

Q When did you transfer to Local 15?

A June 17, 1970, I think. I don't remember the exact date.

Q How did you make that transfer?

A I called up Mr. Murphy, he was in charge where I was working, and he tell me to come down to the local and I get a 15 book at that time.

Q Where were you working at the time?

A Slattery, on Welfare Island.

Q About how long had you been working at Slattery at the time?

A I would say about seven months. I don't know the exact time.

Q About seven months?

A Yes, about.

Q You said you know Mr. Arbor Scott. Do you know if he is working at the present time?

A If he is working now?

Q At the present time.

A I haven't spoken to him in two weeks now.

Q Was he working then?

A At the time I spoke to him he was working.

Q Do you know where he was working?

A No, I do not. I didn't ask. It is about two or three weeks ago.

Q Do you know where he lives?

A 66 Rockaway Avenue or something.

Q In Brooklyn?

A Yes.

Q You said you were a foreman?

A Yes, some time.

Q Are you a maintenance foreman?

A Right.

Q What are the duties of a maintenance foreman?

A The maintenance foreman assigns the guys, the master mechanic tells me what he wants done and I tell the other guys how to work and what is to be done, and I check on this work, too, check on the time, carry the time, and the checks and give them the checks to the guys on the work.

Q You said that your observations are that blacks are treated the same as whites. Have you ever had any blacks complain to you?

A I heard them talk, I didn't really -- nobody ever complained to me. I heard guys talking about work.

Q No one ever complained to you about the kind of work they were getting?

A No.

Q Do you know Hector Lamarr?

A I don't the surname but I know Hector, big stout guy.

Q Has he ever complained to you?

A No.

Q Never discussed any complaints with you?

A No.

Q Are you aware that he filed charges with the Commission on Human Rights?

MR. BRADY: Objection.

THE COURT: I will let him answer that.

Q He never discussed any such charges with you?

A No.

Q Did you ever discuss such complaints or charges with union delegates?

A No.

Q How do you usually get your own jobs?

A I am on a job. When the job is finished I go to the hall, and a few times the contractor has called me up and asked me if I want to come to work, if I am not working, and then I call the delegate and tell him I am going on the job.

Q Which delegate do you call?

A The one that is in charge of the area at that time.

Q Who is that?

A Tom, Jr.

Q Tom Maguire, Jr.?

A Yes.

Q Do you always call Tom Maguire, Jr. if you want a job?

A If the job is in his area.

Q But if you are out of work and you want a job, who do you call?

A I go to the hall.

Q Did you sign up on any particular list? Do you sign up on a list?

A Yes, they put my name on a list.

Q When is the last time you put your name on a list?

A I think it was in June.

Q Do you know what questions you were asked at that time?

A I was just asked put the name on the list and then they ask you when you stopped work and that's it.

Q In your job as a maintenance foreman do any operators work for you or do maintenance men work for you?

A Maintenance, welder, operators.

Q Operators work for you?

A Yes.

Q What type of operators?

A One job, on two jobs I have a colored operator work for me. One on the next job a colored operator.

Q What were they doing?

A One was operating a Dyna-hoe, one was operating a cherrypicker.

Q You were a maintenance foreman at the time?

A Yes.

Q Maintenance foremen usually have operators working for them?

A Yes.

Q Do you consider yourself a good operator?

A Yes, so far I've been to the school and I think I operate good.

Q How much work have you had operating on equipment since you got out of the school?

A Really, it's only one because I don't really care for operating too much. I like to be in maintenance. You make more money.

Q How long was that job?

A I spent about 10 weeks on a machine after I leave the school.

Q You say you have already supervised a cherrypicker operator?

A Yes, they have been on the job. The foreman supervises them.

Q Do you know how to operate a cherrypicker?

A Yes.

Q Do you have a cherrypicker license?

A No. I just took a test when I went there.

Q At the time you were operating as foreman and supervising this man, did you have a cherrypicker license?

A No, I did not.

Q Do you consider yourself a competent cherrypicker operator?

A Yes, but I don't get a license and they won't put you on the machine until you get the license.

Q But you have supervised cherrypicker operators?

A Yes.

Q Isn't it a fact that one one occasion you turned over a cherrypicker?

A Yes. I was working at Slattery.

Q When was that?

A Some time in '73.

Q How did that happen?

A They put the outrigger out and the hydraulic hose broke --

MR. GLASSMAN: I'll withdraw the question.

I have no further questions.

MR. BRADY: I have no further questions.

That's my eleventh witness today and I thought that would carry the day.

THE COURT: You are excused.

(Witness excused.)

THE COURT: I have to stop tomorrow. Tomorrow is the last day.

I recognize the government has had 10 days

and you have only had five --

MR. BRADY: Well, your Honor, I have witnesses scheduled --

THE COURT: A lot of these witnesses are purely cumulative.

MR. BRADY: These are, but I have witnesses scheduled for Friday.

THE COURT: Well, you better tell them to come tomorrow. The best I can do will be maybe an hour or so on Friday in the morning, and then I don't know. I've got to call the people in on a six, seven or eight week jury case starting Tuesday morning.

I thought this case would be over last week. This is a case that may break after a few weeks, but it's not going to break before that.

MR. BRADY: The witnesses I have and the reason they are scheduled for Friday is some of them are out of the state, really, and they are important witnesses to us. We would have to put them on, your Honor. We can pick it up at some later date.

THE COURT: Well, I am telling you that is my situation. With the calendar I have, I've been going all summer.

MR. BRADY: I understand.

Will we be able to pick up a few days later on?

THE COURT: I would hope so but certainly if the case I was picking up was not a jury case I could take a day off with them, but you can't do that easily with a jury, particularly when you are asking a jury to sit practically into December. It's going to be trouble enough to pick a jury. It's not an exciting case.

That's it. See you tomorrow morning at 10:15.

(Adjourned to October 10, 1974, at 10:15 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
John Phillips	3330	3340		
Kenneth Vaughan	3348			
Ralph Jones	3356	3360		
Rufus Brewington	3363	3373		
Victor Henry	3378	3387	3388	
James Daniel	3389	3397		
Aston McEwan	3403	3410		
Joseph Brown	3413	3419	3427	
Rayeal Haltaufderhyde	3427	3434	3445	
Keith Renford Watson	3446	3456		

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs. 72 Civ. 2498
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.

New York, October 10, 1974;
10.25 A.M.

Trial resumed.

MR. BRADY: I call Mr. Johnson.

C L A U D I U S J O H N S O N, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Johnson, can you tell us, please, what your present occupation is?

A Director of the New York Plan For Training, Incorporated.

Q Can you tell the Court, please, just what is the purpose and function of the Plan?

A The purpose of the Plan is to get minorities into the construction industry and to establish affirmative action programs for the construction industry.

Q Can you tell us, approximately, when the Plan

was begun?

A It began December 10, 1970, the agreement was signed.

Q When was it implemented, first?

A I would say around May of 1971.

Q Prior to your present occupation how were you employed?

A I was employed with the Board of Urban Affairs as community liaison.

Q And prior to that?

A I was with the City's Manpower & Career Development Agency.

Q How long were you with that agency?

A Approximately eight years, nine years.

Q Does the Plan have specific goals for placement of trainees?

A Yes, sir.

Q Are you familiar with those goals?

A Yes, sir.

Q Can you tell us, please, how is it determined under which local union a particular trainee is working?

A The individual makes application for the trade in which he is interested, whatever interest he expresses, and he is assigned to that trade whenever we have

an opening.

Q How is application generally made?

A Through the New York State Employment Service.

Q Does this service have offices in various communities in New York City?

A Yes, sir.

Q Are all of the construction trade unions in New York involved in this program, to your knowledge?

A To a large degree I would say yes.

Q What is the commitment of the unions in this regard?

A Do you mean individual crafts or overall?

Q Overall, what do the unions --

A One thousand.

THE COURT: We are interested in one or two unions.

MR. BRADY: Correct.

Q Is there a specific goal for Local 15 of the Operating Engineers?

A Yes, sir.

Q Can you tell us what that goal is?

A 98.

Q 98 trainees?

A Right.

Q How many trainees have in fact been placed with Local 15?

A As of yesterday, 170.

Q Have any of those men received their union books in Local 15?

A Yes, sir.

Q Do you know how many ?

A Yes, I do.

Q How many?

A 15, if I recall rightly.

Q Mr. Johnson, I ask you to please identify that for me (handing to witness).

xx (Defendant Local 15 Exhibit H marked for identification.)

A Yes, I prepared this.

Q What does that Exhibit H show?

A It explains the minority goal for Local 15, the total placement to date, the number of trainees who resigned, the number receiving union books, number currently working or active in the program and the number awaiting reassignment, and the total in the program.

MR. BRADY: I offer this in evidence, if your Honor please.

THE COURT: Any objection?

MR. GLASSMAN: No objection, your Honor.

THE COURT: Received in evidence.

xx (Defendant Local 15 Exhibit H for identification received in evidence.)

Q Mr. Hohnson, how long is the training program for Operating Engineers trainees?

A Local 15?

Q How long does it take -- excuse me, yes, Local 15.

A Three years, approximately.

Q At the end of three years what happens to the trainee?

A They are guaranteed a union book.

Q In Local 15?

A In Local 15.

Q Are the trainees assigned to various contractors, is that how it works?

A Yes, sir.

Q What happens if the job that the trainee is on is completed and the contractor has no other ongoing jobs?

A The trainee is then assigned to another contractor where there is an opening for him.

THE COURT: That is those who are awaiting re-

assignment?

THE WITNESS: Right, the No. 6 awaiting re-assignment right now.

Q Are you familiar with the training received by Local 15 trainees?

A In some degree.

Q Do you have field representatives overseeing the work?

A Yes,sir, we do.

Q Mr. Johnson, are you familiar with a New York Plan Local 15 trainee named Austin Williams?

A I recognize the name, sir, as a trainee in the program.

Q Have you ever received a complaint from Mr. Williams regarding the type of training he received?

A Not to the best of my knowledge.

Q If such a complaint had been made would it come to your attention?

A All complaints come to my attention, sir.

THE COURT: How is this minority goal established?

THE WITNESS: The goal was established in conjunction with the Board of Urban Affairs in the construction industry, sir. I was not privy to the meeting

where this had taken place, so I couldn't truthfully give you details as to how the goal came about.

Q At that time were you employed by the New York Plan For Training?

A No, sir, I was not.

Q But at any rate, the Local 15 currently has 117 trainees?

A Active, sir, but we have put in 170 overall in the program.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Johnson, you said you were originally, a while back, employed by the MCDA?

A That's right. Manpower Career Development Agency of the City of New York.

Q Do you know who is presently the head of that agency?

A I would believe it is the commissioner, Lucille Rose.

Q Do you know if James McNamara works for that agency?

A I think he works for the Bureau of Labor Services, if I am not mistaken.

Q Do you know Mr. McNamara?

A Yes, sir, I know him.

Q Have you had any dealings with him in connection with the New York plan?

A Yes, sir.

Q What kind of dealings have you had with him?

A In the assignment of trainees to the various contracts allotted by the city, he has sat on some of the meetings where we have determined the number of trainees to be assigned to any particular job.

Q Isn't it a fact that he has consistently asked for more trainees?

A I am not aware of that, sir, that he has personally asked for that.

Q Isn't it a fact that the City of New York has asked for more trainees, consistently?

A Yes, sir, in some trades.

Q The Board of Urban Affairs, whom you next worked for, is that the Building and Construction Industry Board of Urban Affairs?

A Right, sir.

Q Can you tell us, if you know, who composes that group or what that group is?

A It is my understanding that the Board of Urban Affairs was set up to handle the minority problems in the building construction industry, sir.

Q Who was it set up by?

A I am not aware of who set it up, sir, because I was employed subsequent to its being set up.

Q Do you know if that is an industry group with industry representatives?

A I would say yes.

Q Do you know if that has both union and contractors representatives?

A Yes, sir, I would say yes, to the best of my knowledge.

THE COURT: Has there been any modifications of the goal, any increase in the goal or is this a static goal?

THE WITNESS: I would consider it as a static goal that has been set up, sir.

THE COURT: Once you had brought 98 minority people into the industry technically you would have satisfied all the requirements from then on, is that correct?

A Well, no, sir. We fill slots, sir. If an individual graduates from that slot by getting a union book, then that is also filled by another new applicant, so it is a continuous filling of slots. One vacates, another man comes in.

The fact that we placed 170 I think would

be indicative that we do not just stop with 98.

THE COURT: Well, it's not what you do, what you are required to do that I am trying to get to.

Does this mean that you are supposed to have 98 going into the industry each year, or once you hit the 98 figure are you technically no longer obliged to process any minorities into a particular union?

THE WITNESS: That's not my understanding, sir.

Q Do you know if Local 14 or 15 have any representatives in the Building and Construction Industry Board of Urban Affairs?

A I am not aware of that, sir, to the extent you are asking.

Let me retract that statement. I beg your pardon.

15, yes. I am not aware of 14. I do not deal with 14, let me make that clear. I only deal with 15.

Q Isn't it a fact that the New York Plan has a maximum set in the New York Plan of 1000 trainees in the City of New York?

A I know the goal is a thousand, sir, and I am not quite sure what you mean by a maximum of that.

Q Do you know if the goal has in recent years

increased from 800 to 1000?

A Yes, I am aware of that, sir.

THE COURT: When did that happen?

MR. GLASSMAN: I believe, your Honor, we will introduce,perhaps in rebuttal, some testimony as to when that may have happened, if Mr. Johnson does not know.

THE COURT: All right.

MR. GLASSMAN: I would like to have marked as Plaintiff's Exhibit 101 for identification what for convenience is also Exhibit 4 to the GCA's answers to interrogatories.

BY MR. GLASSMAN:

Q I would ask Mr. Johnson if he recognizes that.

A Will you explain that, sir. I didn't hear what you said.

Q I would like to ask you if you recognize that exhibit, if you will leaf through the next few pates.

THE COURT: Can you identify that?

(Plaintiff's Exhibit 101 was marked for identification.)

A Yes, I recognize this.

Q What is that?

A That's the -- I call it the red booklet of operations, sir. This is -- the pamphlet was put out concerning the establishment of the New York Plan and the way it should function.

MR. GLASSMAN: I offer that in evidence.

THE COURT: It's already in evidence.

MR. GLASSMAN: We actually had not offered it in evidence before.

THE COURT: Received.

(Plaintiff's Exhibit 101 was received in evidence.)

BY MR. GLASSMAN:

Q Mr. Johnson, I refer you to page 5 of that exhibit, Section 2, entitled "Number of Trainees," and ask you if that provides for a maximum number of trainees.

MR. BRADY: Your Honor, the exhibit speaks for itself.

THE COURT: I would assume so, but he can still tell us.

A And your question is if this provides for a maximum of trainees?

Q Yes, section 2 of that.

A That is the original agreement, sir, and the reading here indicates that.

THE COURT: And that is 1000?

THE WITNESS: No, sir. That's why I said --

THE COURT: This says 800?

THE WITNESS: Yes.

THE COURT: And there has been a subsequent --

MR. GLASSMAN: I believe there has but --

A There has been a subsequent one, sir.

MR. GLASSMAN: Perhaps on rebuttal, if it doesn't come out on the record, we can go into that.

THE COURT: So it's possible to increase the goal under that plan?

A Yes, sir. And we have increased it, sir.

Q Mr. Johnson, do you know if Local 15 is a signatory to the plan?

A I would say yes, sir, to the best of my knowledge.

Q Do you know if Local 14 is a signatory to the plan?

THE COURT: Maybe we can get a stipulation from counsel.

A I am not aware of that. I don't deal with 14.

MR. BRADY: On behalf of Local 15 we so stipulate.

MR. KENNEDY: Your Honor, if I might explain, our charter only permits us a journeyman's charter, and because of the license requirements we are not a signatory to it.

THE COURT: All right.

MR. GLASS: I believe the answers to interrogatories of Local 14 may show different, but they will speak for themselves.

THE COURT: All right. I am just trying to inform myself.

MR. GLASSMAN: I just wanted to know if this witness was in fact familiar with the signatory provisions.

Q Do you know what it means if a union is a signatory to the plan? What does it mean?

A It is my understanding that it means that they will participate in the training program.

Q Does this have any significance in regards to the contract compliance in the City of New York?

A I would say yes, it does.

Q Do you know what thatsignificance is?

A I would say it helps the contractor to meet his minority commitment or comply with the affirmative action program.

THE COURT: Now, we are speaking of construction in the City of New York other than government or other than the publicly funded construction?

MR. GLASS: I would ask Mr. Johnson that.

Q Do you know if this relates to contract compliance on federally or state or city funded projects?

A I would say yes, it applies.

Q Do you know if it is a requirement that contractors dealing with unions who are signatories to the plan have certain numbers of minorities in order to maintain federal or state or city funding?

A Not in the language in which you put it, sir.

Q Could you describe it to us then in your own language?

A Contractors are obligated under the affirmative action as it is spelled out in their contract bids to accept a number of trainees, and that's spelled out in the bid.

Q Are there any obligations placed on particular

unions, if you know?

A To the extent that it is spelled out in the contract bid, they are told how many trainees will be coming onto that particular.

Q Do you know what the original deal was for trainees within the jurisdiction of Local 15?

A Yes, sir. I saw that some place yesterday.

Q Do you know what that goal was?

A Yes, sir, I do.

Q What is it? What was the original goal?

A '73.

Q In what year was that goal set?

A I would believe that that was December of '70, when the plan was originally established.

Q Isn't it a fact that the '73 trainee goal was a goal for a total number of trainees which had to be employed at one time or another under the jurisdiction of Local 15 by the end of 1972?

A I couldn't truthfully say yes to that, sir, because I was not privy to the original agreement. I just came under the plan in -- 1974, January, I took over the plan.

Q When did you first take over the plan?

A January of 1974, sir.

Q At that time were there 170 trainees under Local 15's jurisdiction?

A No, sir.

Q About how many were there?

A I do not recall the exact figure, sir.

A Less than 100.

A I would say no, sir, because we have 170 right now.

Q Do you know how many were there in January of 1973?

A No, sir, I don't.

Q Do you know how many were there in January of 1974?

A No, sir, I don't have an exact figure.

Q Do you know how many were employed in June of 1974?

A No, sir, but -- I don't have the figure in my head for any month-by-month basis.

THE COURT: Those figures would be available, though, wouldn't they?

THE WITNESS: Yes, your Honor, they would be available.

Q When a particular goal is set or a particu-

lar number of people is set, does that mean a number of people who must be continuously employed or a number of people who must be on a job at some time or another during a particular year?

A You mean per contract?

Q For a goal -- for example, this goal of 73 or the increased goal of 98.

What does that goal mean?

A It is my understanding that that would indicate the number of trainees that would be accepted into that craft.

Q If an individual is accepted into the New York Plan for a particular craft, let's say the operating engineers, on January 1st of a given year, and he drops out of the plan some time during the progress of that calendar year, isn't it a fact that that individual is counted as having been an individual numbered towards that goal?

A No, sir. We have not been keeping our records that way. We have, as the exhibit will show, designated them as either terminated or awaiting assignment.

T3

Q How many men completed the New York Plan in Local 15's jurisdiction since it started?

A The exhibit will show, I think we indicate that 15 obtained union books.

Q How long is the program?

A What program?

Q The New York Plan Program For Trainees? How long will it take the person to complete the program if he starts from scratch?

A Talking about Local 15?

Q Yes.

A I would say three years, approximately.

Q Have you had any discussion with the union to confirm that?

A I would believe in the course of dealing with them we have discussed the matter.

Q Does the man automatically receive his union book after three years in the New York Plan?

A I would say yes, because 15 have received it already.

Q Any others been in the plan for three years, if you know?

A I would say no, to be honest with you. I would believe those that has the three years are the ones that

received the book and not necessarily have they been in three years before they got the book.

Q You stated the plan started in 1970?

A The agreement was signed in 1970 and we began operations about May of 1971.

Q So more than three years have elapsed since the plan started?

A Since the agreement was signed.

Q And since May, 1971, obviously.

Do you know how many people were in the New York Plan under Local 15's jurisdiction in October of 1971?

A No, sir, I don't.

Q When you became Director of the New York Plan do you know how many people had received books in Local 15 as of that time?

A No, sir, not off the top of my mind. I couldn't give you a specific figure on it off the top of my mind.

Q Do you know if it was less than 10?

A I don't know, sir.

Q With whom have you had discussions in Local 15 regarding the granting of union membership upon completion of the New York Plan Program?

A Truthfully I couldn't say who it is, to be

honest with you. I deal with several members of Local 15 and I don't recall to whom I specifically indicated my question.

Q Do you deal with delegates of Local 15?

A I would believe I did, sir. I couldn't specifically tell you who the individual is I spoke with. I deal with various ones there and I couldn't point out one.

Q Which individuals do you deal with?

A Mr. McGuire, Mr. Murphy and Mr. Guma and others.

Q Mr. McGuire, Sr. or Junior?

A Normally I deal with Junior, sir.

Q How often do you deal with Mr. McGuire, Jr.?

A Whenever I have a necessity.

Q On what matters do you have discussion with Mr. McGuire?

A The clearance of trainees for any particular job site.

Q How do you clear a trainee for a job site?

A We write a letter, sir.

A The New York Plan writes the individual letter?

A We write a letter to the local.

Q How do you get the names of individuals?

A They are supplied to us from the New York, by the New York State Employment Service.

Q Do you know in advance the amount of experience an individual has?

A Not necessarily do we know, sir, unless we have the individual in at the moment of assigning him, then we will ask him some cursory questions regarding experience.

Q Are all people who join the New York Plan completely inexperienced?

A No, I wouldn't say that.

Q Could you describe the range of experience an individual coming into the New York Plan for Local 15 would have?

A He may have no experience, he may have had some experience in the Seabees.

Q Any other kinds of experience?

A It would range from no experience to, I would say, maybe a year or two operating some equipment some place.

Q Is it true that all of the individuals in the program are either black or Spanish-speaking?

A Yes, I would say yes. That is Local 15?

Q Yes.

A Not the entire program?

Q Just talking about Local 15.

A Yes, sir, I would say that.

Q When an individual joins the New York Plan or an individual name comes to you,could you describe procedurally what you do with that individual?

A Well, the individual is brought in our office and given a profile letter, which is a letter of introduction to the -- well, it is a letter to the union advising the union that John Doe would be placed in a certain job starting on a certain date at a certain rate of pay.

It gives an indication as to the man's name, address, telephone number and Social Security number.

The trainee receives a copy of that letter and a copy is given to th3 field representative and a copy is sent to the contractor.

Q What happens then?

A The man goes to the job with the letter and begins to work.

Q Do all men whom you refer get accepted into the Plan?

A Yes, sir, to the best of my knowledge.

Q Have you received any more than 170 names of individuals who might be interested in the New York Plan for Local 15?

A Yes, sir, we have received several.

Q What is done with the additional names?

A When a job comes up we send them out. We have the names still hanging.

Q Who determines when a job comes up?

A Our field representative.

Q Who does he consult?

A With the contractor.

Q Does he consult with the union?

A Not necessarily.

Q On occasion does he consult with the union?

A That is not his responsibility, sir.

Q Does anyone else in the New York Plan attempt to obtain jobs through the union if the contractor says he can't hire him?

A I have never had that experience, sir.

Q Have you ever tried?

MR. BRADY: Objection.

A I never had that experience.

Q Do you test an individual when he comes to the Plan?

A No, sir, there is no testing.

Q Do you know if Local 15 tests any individuals when they come?

A There is no testing by them either, sir.

Q What is the pay of a New York trainee?

A The starting wage, if I recall rightly, is $5.70.

Q $5.70 an hour?

A To start, yes.

Q Does this increase as he stays in the Plan?

A Yes, sir.

Q Can you describe how that increases?

A It increases every year.

Q At what rate?

A I have the rate in my office, I don't have it here with me. But it is comparable to the helper's rate that the operating engineers have.

Q Do you know approximately how many of the 170 individuals presently in the Plan are making $5.70 an hour?

A Not off the top of my mind, no, sir.

Q Could you supply that information for us and fill in the record?

A Yes, we could supply that for you if it is needed. It would take some time to go through every name to obtain it.

MR. GLASSMAN: If the Court would permit, I would like to have the witness provide that.

THE COURT: Would you do that?

THE WITNESS: Yes, your Honor, I will supply it.

Q Is there a waiting list to get into the New York Plan?

A Oh, yes.

Q Do you know how long the list is?

A I do not know how long the list is, but I can tell you it is a long list, but I don't know.

Q More than a hundred names?

A Oh, yes.

THE COURT: Talking about 15?

Q Do you know any particular waiting list for Local 15 as opposed to --

A My answers are all directed to Local 15.

THE COURT: A waiting list of approximately 100?

Q Is it more than 100?

A I would believe it is more than 100.

Q More than 150, if you know?

A I do not have a specific number, but it should be around there.

Q Do you have a specific waiting list for Local 15, a list of names?

A Yes, sir.

Q Could you supply it?

A I don't have them,the New York State Employment has.

Q Could you supply the Court with a copy of that as well?

A To be honest with you, that would entail the services of the New York State Department of Labor. I do not have any control.

Q Would you know the individual who we could contact who would have that list?

A Yes.

Q Who is that?

A Mr. James Bryan.

Q Who is he?

A He is the liaison between the New York State Employment Service and the New York Plan with regard to the recruitment and referral of applicants for the program.

Q Do you know where he is located?

A Yes,sir, 2 World Trade Center.

Q Do you happen to know his phone number?

THE COURT: You can get that.

A I am not a walking encyclopedia, sir.

MR. GLASSMAN: We can go on.

Q When an individual starts under Local 15's training in the New York Plan, what kind of work is he

usually given?

A Well, he may be assigned as a rod man, surveyor's helper, in that category, a helper. He may be assigned as a helper with a maintenance crew.

Q Is it true that most of the people are doing either work as rod men or as maintenance or helper?

A Yes.

Q Do you know if any of the individuals are doing operating work, operating pieces of equipment like dozers or cranes or backhoes?

A They might be getting training on this. I couldn't say truthfully they are all operating equipment. They don't have licenses.

Q Do you know if they are operating bulldozers or scrapers?

A I don't know, sir.

Q If they were to receive training on operating equipment, how would they actually receive that training?

MR. BRADY: I think that is based on whether he knows.

Q Assuming that?

A I was about to answer I don't know if they are getting training on this, I am not a field man.

THE COURT: I could only assume they would have

to go through the contractors.

THE WITNESS: I would concur with that.

Q Is there any agreement that you know of for any formalized trainee under the New York Plan for actual operating experience?

THE COURT: Do you run a school?

THE WITNESS: We don't run a school. The Operating Engineers runs a school but we don't run a school.

Q Is it accurate to say that men in the New York Plan get on-the-job training?

A The whole thing of the New York Plan, sir, is on-the-job training. The whole thing is on-the-job training.

Q The New York Plan doesn't select individuals on the job who are especially competent to train an individual?

A No, sir, we don't. We just refer the bodies.

Q Is there any particular job site in the City of New York on which there are more Local 15 trainees than anywhere else in the City of New York, if you know?

A I couldn't answer that, sir. I don't know.

Q Are you familiar with the Perini North River job site?

A Yes, I am familiar with that.

Q Do you know if it has a lot of trainees on the

job site?

A Yes, sir, there are.

Q Would you know how many?

A No. But we could get the record on that. I mean I don't have it off the top of my mind, sir.

Q Do you know if that has more trainees than any other job site?

A I would say yes, because of the large job that's been performed there. It's the biggest job we have in the city and on that basis I would say they have more trainees than others.

Q Do you know if that's a federal job?

A Perini North River?

Q Yes.

A I know it has federal funding there.

Q Have you ever personally dealt with federal contract compliance officers in the City of New York?

A Yes, sir, I have.

Q Have you dealt with contract compliance officers in connection with the Perini job site?

A Yes, sir, I have.

Q Could you tell us the names of who you have dealt with?

A I have sat in on the meetings that have been conducted by representatives from the federal government that are checking or were checking the compliance picture

on Perini North River.

Q What federal agency would that be?

A EPA.

Q Is that Environmental Protection Agency?

A That's right.

Q With what individuals there have you dealt?

A From the federal agency?

Q Yes.

A I think they were Jim Brown and Ken Smallwood.

Q Do you know what Ken Smallwood's position is?

A I think he is the director of the Civil Rights or Equal Rights Program for the EPA. I think that's what he is. I am not quite sure what the definition is.

Q Do you know if Jim Brown works for Mr. Smallwood?

A Yes, he works for him.

Q What has been the nature of the discussions you have had with Mr. Smallwood and Mr. Brown?

A I've not had discussions with them. I've been in on the meetings where they have discussed the compliance situation of Perini North River, and I have been there sitting in as one of the participants in the

meeting; that is all.

Q Would it be accurate to say that at those meetings, those two individuals have generally asked for more trainees and more man-hours for minority trainees?

A I don't recall that kind of a discussion.

I would say no to that question, to be honest with you.

THE COURT: Does this have anything really to do with the union? The union doesn't control compliance, does it?

MR. GLASSMAN: I think it is relevant insofar as any affirmative action here might be considered a form of a defense. It is to focus on the reasons for minorities being placed and why they are placed on certain jobs.

That's the only relevance of the particular line of questioning.

Q Do you know who or what governmental agencies originally supported or were members of the New York Plan?

A I think the exhibit you showed me there, sir, the agreement indicated the New York State and New York City.

Q Is New York City still a member of New York Plan?

A No, sir.

Q Do you know why it withdrew?

A No, sir, I don't know why they withdrew.

Q Do you know that they withdrew?

A I knew that they withdrew. It's public information,come out in the press.

Q Has Local 14 ever participated in the New York Plan?

A No, sir.

Q Do you know if Local 14 was ever requested to participate in the plan?

A I am not aware of that.

Q Is it accurate to say that the goals in New York Plan were arrived at one the basis of a voluntary agreement between the trades and the governmental agencies?

A As I said before, sir, I was not there when the goals were arrived at.

Q Are you aware of any current negotiations on extending the life of the New York Plan?

A Yes, sir, I think there are some negotiations going on now.

Q Have you been involved in any of those negotiations?

A In a way I've been in on some of the meetings.

THE COURT: Does that involve any projected increase in the so-called goals?

THE WITNESS: The meetings I've sat in on, your Honor, I think there was some discussion as to the goals to be arrived at but nothing has been decided as yet.

THE COURT: That is where the matter has been considered.

THE WITNESS: That's right, sir.

BY MR. GLASSMAN:

Q Do you know if the Operating Engineers are participating in those discussions?

A The Board of Urban Affairs represents them, sir.

Q Do you know if specific new goals for the Operating Engineers are being discussed by the Board of Urban Affairs on their behalf?

A As I answered to his Honor a while ago, we have not entered into any specifics in goals. It's one of the items to be discussed.

Q Mr. Johnson, by whom are you actually paid?

A The Board of Urban Affairs, sir.

Q Is that the Building and Construction In-

dustry Board of Urban Affairs?

A Yes, sir.

MR. GLASSMAN: I have no further questions, your Honor.

MR. BRADY: I just have two, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q For the record, Mr. Johnson, what is your race?

A Black, sir.

Q And do you know if the City of New York is taking part in the present negotiations?

A Yes, sir, they are part of the negotiations.

Q And since you testified they have withdrawn from the plan, do you know why the City of New York is part of the negotiations?

A I would say yes, sir, they are trying to be a partner in the training program. They would like to be a partner in the training program.

Q They are getting back into the program?

A Yes, sir.

MR. BRADY: No further questions.

RECROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Johnson, do you know if the City of New York has been involved in any lieigation involving the New York Plan?

A Any litigation involving the New York Plan?

Q If you know.

A I would say I believe they are, sir. I am not quite sure what the litigation is about. I did see some document but I am not quite sure what it involves, though.

Q You are not familiar with that?

A No.

MR. GLASSMAN: That's all.

MR. BRADY: No further questions.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Albert Gonzalez.

A L B E R T G O N Z A L E Z, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Gonzalez, will you tell the court, please,

by whom you are currently employed?

A Castagna & Son-Wraisler joint venture at Wards Island.

Q What is your job category or job title?

A My job title is trainee and my functions are to assist and maintain equipment.

Q Are you a New York Plan trainee?

A Yes, I am.

Q And are you a New York Plan trainee under Local 15, the Operating Engineers?

A Yes, I am.

Q How long have you been a trainee?

A For Local 15?

Q Yes, sir.

A Since last July, '73, the 11th day.

Q Prior to coming into the plan did you have any mechanical experience?

A No, not as a tradesman, no.

Q What did you work at before?

A How far back are you asking me the question, sir?

Q I mean before you went to the New York Plan?

A I was in the New York Plan in '71 as a steamfitter apprentice but due to the strike between July of

'71 to, oh, I don't know, October, maybe, September, there was no work and when they came back from strike they did not call me back as a trainee for the steamfitters.

Q Did they then place you with the engineers?

A Yes.

Q Prior to your entering the plan itself, what was your line of work?

A I was a cook for Mobil Corporation on their oil tankers.

Q How long were you a cook, sir?

A About six years.

Q What is the nature of the construction site where you are now employed?

A They are building a water pollution plant and sewage disposal plant also, I believe.

Q And describe for the court, please, what kind of training you have gotten since July of '73 to date?

A Well, since my coming to the program I received training on burning with torches, welding --

Q When you say "training," did you actually use -- are you using the tools of the trade?

A Oh, yes. We first have a discussion what

the functions are, what their limitations are, how to use them properly, how to set your gauges properly, how much pounds of pressure for air, how much pounds of pressure for acetylene, your rods, different burning rods, different sizes, different temperatures that you can melt your rods in, the metals that you can use to burn, which burns faster, slower, which is harder to cut.

Q Then do you get practical application of that? Do you work with the tools?

A Yes, we get practical application. Of course, it's not to the degree, let's say, one whole week on it, because we have different functions. Sometimes we are needed in different parts of the job to assist other mechanics, so if you are spending an hour cutting, practicing, they might need you somewhere else for another hour, two hours, so that interrupts that section, until the welder or burner has time to get to you again.

But in the course of the training, yes, we do get training, yes.

Q Do you get any training on equipment on that job?

A Yes, we do.

Q What equipment have you gotten training on?

A We got cherrypickers, backhoes, payloaders, bulldozers. We don't practice on cranes on the 200-foot cranes because they are Local 14's equipment, from what I understand. We don't have licenses. We need permits, books and everything else to start operating this heavy equipment.

Q But on all the other equipment have you had an opportunity to learn?

A Oh, yes. Oh, yes.

Q Do you also work with the maintenance men, the mechanics?

A Yes, we do.

Q Do you actually work with tools when you work with them?

A Naturally. You can't turn screws and bolts and nuts with your hands. I mean that's a little far-fetched, isn't it?

Q And what is your opinion of the training you are receiving, Mr. Gonzalez?

A Personally?

Q Yes, sir.

A Or overall?

Q Your personal opinion.

A Personally, I am receiving good training. I could say it could be better in one or two areas, but in overall, I am receiving good training. I have no com plaints whatsoever, as far as I am concerned.

Q What is your rate of pay on the job?

A Right now I am receiving $7.20 an hour.

Q How long have you been receiving 7.20?

A A little over six months I would say.

Q Before that what was your rate?

A 5.45 I started in the plan, and then I went to 6.05 and then I went to my other pay wage now which I am receiving, 7.20, I think it is.

MR. BRADY: No further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Gonzalez, you began in the New York Plan in 1971, is that correct?

A That's right.

Q Did you select the steamfitters as the trade you wanted to go into?

A No, not really.

Q How did it come about that you wound up with

the steamfitters?

A That was the opening.

Q It was an opening there so you were assigned there?

A Not only was I assigned there, I had just gotten off the ship's because of my allergies and my hand. I couldn't work as a cook any more. I had no means of supporting myself, Unemployment Insurance doesn't do it for you.

So therefore they told me they had an opening as a steamfitting trainee.

I said that I would accept and take it.

Q How old are you, Mr. Gonzalez?

A I am 35.

Q How long did you wait, if at all, to get into the New York Training Plan?

A Not too long, sir. I was very surprised myself.

At that time, being that it was a little more earlier in the game, that they just had started the New York Plan it might have been more simpler then than it is now, being that there was less people involved in the training program.

Q How long did you stay with the steamfitters?

A Oh, I'll say close to four months.

Q Then the strike occurred?

A Yes.

Q How long were you laid off by the strike?

A About nine weeks, ten weeks, somewhere around that area.

Q And you say you were not taken back by the steamfitters?

A No. As a matter of fact, I was surprised myself because the rest of the trainees that were there with me all got called back; I did not.

Q Did you ever talk to anybody about that?

A I called the office after I found out that they were back at work.

Q Which office was that?

A The Bronx office.

Q Whose office?

A New York Plan's office.

Q What happened when you called there?

A Well, I spoke to the field representative that was taking care of me then, when I came into the program, and from my recollection of that conversation it was that there was no more opening at the time, that they had a waiting list now to go to again.

Q Were you put on a waiting list?

A I would assume so but I never heard anything from it.

Q When is the next time you heard from the New York Plan?

A When I took action myself to find out what they were doing about getting me back into the training program.

Q How long was it between the time the strike ended and you took that action?

A It must have been within three months.

Q What did you do?

A I went back to the office and I talked to the field representative. He told me that they were still waiting, that they were booked at the moment and that their quota had been filled for that month.

This is the explanation that I received.

Q Did you do anything after that about getting in?

A Well, I mean, my hands were pretty tied by then. It was -- I tried to find out other information, but being an agency as it is, there is very little that you can do from the outside.

Q Did you ever hear from them again?

A No. As a matter of fact, the next step that I took was a couple of months after that on my own, and they told me that any other trade that I wanted to get into at the time would be a long waiting list because for carpenters, steamfitters, electricians, plumbers, operating engineers, everything else was booked. They had a hundred names or over on the list, on each one of them. This is what they presented to me.

Q Did they put your name on any of the lists?

A Not that I know of, no.

Q After you were told that, what happened next?

A Well, again, I had a job.

Q Were you working somewhere else?

A Yes. I had to. I mean I couldn't wait for these people to sit there and just give me a job and me home sitting without, you know, without any money in my pocket.

Q Do you have a family?

A No. I'm single.

Q Where else were you working at the time?

A Well, I worked at various jobs. I took a job meanwhile to just support myself while I heard from

the plan, you know.

Q How much money were you making while you were waiting?

A Not very much. I think I was making maybe a hundred dollars, if that.

Q After the second visit to try to get into the plan, did you ever hear from the plan again?

A No, sir.

Q Did you ever try to contact the plan?

A Of course.

Q When was the next time?

A Again, about a month, maybe two months after the second time.

Q And what happened, if anything, then?

A Again, the same explanation and the same result.

Q Did you ever try a fourth time?

A No, sir, because by that time I got pretty disgusted with the attitude of the people that were handing me this information.

T5

Q What did you do?

A I took steps on my own.

Q What were those?

A I wouldn't say exactly on my own because I had help as far as I am concerned.

I tried to get into the Plan the right way, the way it is supposed to be done, putting the name and application, filling it out and waiting on the list to be called and so forth. But I was getting no results, sir, bang my head up against the wall.

I couldn't get nowhere, any sort of information as to what type of training, where I was going to get the training or from whom.

Q You said you took steps on your own. What were those steps?

A It turned out a very good friend of mine happened to be working as an operating engineer and was in the union, so therefore he heard that on Ward's Island they needed a trainee for the Operating Engineers. I went down and I spoke to the people there and they liked me and they hired me.

Q At Ward's Island?

A Yes.

Q You spoke to the contractor?

A The contractor and the maintenance foreman and the master mechanic.

Q They hired you directly?

A Yes, because this person told me and they took a chance on me, they would take a chance for three months. If I worked out, I could stay.

Q You were hired as a trainee?

A Hired as a trainee.

Q At the $5.45 rate?

A That is right.

Q When you were first in the New York Plan as a steamfitter apprentice, how many other trainees were there?

A At the Island? Steamfitting?

Q Yes.

A As I recollect, I was the first one, I believe, on that job site as far as trainees for steamfitters. Local 636, I believe it was.

Q Did you know any other steamfitter trainees?

A No, the rest of the trainees came after I did.

Q How many was that?

A We must have had at one time three or four that I recollect.

Q Are they still there, if you know?

A Not on that job site. They still are probably

in the Plan but not at the particular job site.

Q Do you know if they have their books?

A That I don't know, sir. The last time I spoke to them they were going to school and they were learning welding and burning and so forth.

Q Just tell me approximately when it was that you got that job on your own on Ward's Island.

A July 11, 1973.

Q What kind of job is this at Ward's Island?

A A water pollution plant and sewer disposal.

Q Is that a Federally-funded project?

A I believe that is Federal, State and City-funded.

THE COURT: Can't we get a stipulation as to what it is without all these questions which he may or may not know? Can't we get a list of them?

MR. DEVORKIN: We will produce the list, your Honor, of the total projects.

THE COURT: There is no dispute about it.

MR. DEVORKIN: No, I understand.

Q Can you compare the difference in the training you were receiving as a steamfitter apprentice and the training you began to receive as an operating engineer maintenance apprentice?

A Entirely two different trades, talking about two different functions. The only thing common would be the welding.

Q Is that fairly similar?

A Well, you know you have to put pipe together and there is only one way you can do it, but cutting and welding them. The operating entineers use welding and burning materials and that is the only common thing as far as our tools and burning.Everything else is different.

Q When you arrived at Ward's Island were there other trainees on the job?

A Not on 15.

Q Are there other 15 trainees now?

A Of course.

Q How many are there?

A Us three here in court today and I am not sure, there was one more one time.

Q Are they all either Spanish or black?

A Yes.

Q Were you the first trainee hired on Ward's Island, if you know?

A In 15, I believe so. Not on the whole Island I wouldn't say, sir.

Q Just in 15?

A Just in 15, yes.

Q You said, I believe, that you assist the mechanic on the job?

A Yes.

Q What do you actually do for them?

A We are running water pumps and diesels around the clock and pumps do have a tendency to get stuck and mud and everything else.

So we have to take them apart, clean them, repair them, whatever else, plus the sparkplugs have to be changed or whatever, change of oil or water, whatever the pump needs, and so do the diesels.

Q How many Local 15 maintenance engineers are on this job?

A The maintenance crew?

Q Not the maintenance crew but mechanics, maintenance engineers.

A Well, sir, you are asking me a tricky question because,you see,some operators also are very good mechanics. Just that they are operators doesn't mean that you are segregated from the rest of the group.

Q Let us take one at a time. How many people are doing nothing but maintenance or mechanic's work?

A Now you are talking. We have three regular

mechanics in the shop at all times. There is from my estimation four trainees. We have a maintenance foreman and operators.

Q How many operators are there?

A Right now on the job for 15 I would say roughly there is two cherrypickers and I would say about six or seven operators.

Q How many Local 14 operators are there?

A Well, we have eight booms up in the air and there are eight right there. I believe your compressor people are also under 15 but they are not operators, but they take care of the compressors.

Q In addition to this, do each of the eight operators have a Local 15 oiler with them?

A That is hard to say again. I don't know everybody.

Q Did you see a second man on the piece of equipment?

A Yes, on the 14 equipment, though.

Q How many of those second men, so to speak, were black or Spanish?

A One on the job right now.

Q A trainee or engineer?

A I believe he is an engineer, sir.

Q Can you tell us the difference between the work that those four trainees are doing day to day and the work that the three maintenance engineers are doing?

A Well, there is very little difference except that the trainees are in the field in one spot with their pump or assisting the pump man. As far as the mechanical work, it is all indoors except what has to be done outdoors, the cherrypicker has to be repaired, that is outside. The bulldozers, the cranes that we have to work with or assist.

Q Would it be accurate to say that you are doing roughly the same work?

A Yes, roughly.

Q Those men are book men?

A The maintenance people, yes, they are book men.

Q Do you know how old any of the maintenance engineers are?

MR. BRADY: Objection. I don't see the relevance of the age of the engineer.

Q Are there under 25?

A In the maintenance crew?

Q Yes.

A Yes.

Q Any operators under 25?

A Perhaps one that I know of.

Q Any operators or maintenance engineers as young as 21 or 22?

A I haven't seen any on this job site, sir.

THE COURT: Are we now on age discrimination?

MR. DEVORKIN: Well, the only point I was trying to make is that there was some testimony that very, very young men get into the union with very, very little experience. I just want to see if there are any such men on this job.

MR. BRADY: That is not what experience this man has.

THE COURT: Let us go on.

Q Have you ever worked on a permit from Local 14?

A No, sir, that would be totally, almost impossible.

Q Why is that?

A Well, first of all, assuming that I don't know anything about operating any equipment or mechanics, there is no company in this world going to hire me on a big 200-foot boom to operate or even assist if I don't have any practical ability for it.

Q Do you know if anybody is being trained to operate 14 equipment?

A Not that I am aware of, sir.

Q Is there Local 14 equipment on your job site that are smaller than 200-foot booms?

A Yes, clamshells are there, sure.

Q Have you ever asked to receive training on any piece of Local 14 equipment?

A No, sir. Like I say, that would be out of jurisdiction.

Q Have you been told about anybody receiving training on Local 14 equipment?

A Eventually after I do get my book and after I become a union member, 100 per cent brother, then perhaps I will, or if they need me in a position, probably I will do it, but not before.

Q You mentioned there were a couple of areas where the trainee could be better. Which are those?

A Only personal observation, this has nothing to do with the program itself as a whole. It is not that they are not supposed to be doing it, but my only personal observation.

MR. DEVORKIN: I have nothing further.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Gonzalez, isn't it true that when you are

working on mechanical repairs you are really working under the supervision of the maintenance man?

A Yes,sir. At all times there must be a full mechanic present. Trainees are not allowed to handle the tools from the begining anywhere from my conception, unless we are supervised by the regular maintenance crew.

Q The regular maintenance man is the one who is truly responsible for the repair?

A Absolutely. He is assuming responsibility. He is just giving you the break so in the future you can take over.

Q Have the Local 15 men being cooperative with you in teaching you?

A As far as I am concerned in my own knowledge, yes, I have gotten more than 100 per cent cooperation.

Of course, that goes on a day-to-day basis. If the operator is busy I would not disturb him to give me a half-hour or an hour. If he is finished, I expect some cooperation.

Q Have you gotten that cooperation?

A Yes.

Q Any problem with it?

A The only thing, I will never stop a man if he is working just to have him teach me something when I can

do it by watching. If the machine is not operating, then he can maybe give me a half-hour on it or an hour or half a day.

Q Have you been able to get a half-day?

A Yes. Not every day, but eventually sometimes sooner or later that job will have waiting for a truck to unload or the truck is not there and the machine is sitting there and the operator will give you the chance to sit on the seat and swing the boom and swing the hoist and put the stabilizers out. I would not take him off the machine to tell me something, to take a half-hour or prevent somebody else from working.

Q Are those Local 15 men white?

A The ones teaching me?

Q Yes.

A Yes.

MR. BRADY: No further questions.

RECROSS EXAMINATION

BY MR. DEVORKIN:

Q What pieces of machinery have you learned to operate, Mr. Gonzalez?

A The ones I am learning to operate now are the Dynahoe and cherrypicker.

Q Any that you actually have learned how to oper-

ate?

A Not fully, because that takes a long time. Only practice and actual experience on the job.

Q Do you have a union book?

A No, sir, I am only a trainee.

MR. DEVORKIN: That is all, thank you.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

MR. BRADY: Mr. Buchanan.

R O B E R T B U C H A N A N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Buchanan, by whom are you employed?

A Castagna-Wraisler Corporation, doing a joint venture in Wards Island.

Q What is your occupation?

A Operating engineer.

Q And what is your job title?

A Foreman.

Q How long have you been so employed, Mr. Buchanan?

A I've been with the Castagna-Wraisler for about a year and four monrhs.

Q As a foreman, do you have certain operating engineers working under you.

A Yes.

Q Do you also have some trainees working under you?

A Yes, I do.

Q Do you recall a trainee named Herbert Screen?

A Yes.

Q Did Mr. Screen work under you when you were a foreman?

A Yes, he did.

Q When was that, sir?

A Well, up until, I would say, about a month ago, six weeks ago.

Q How long had he been on the job?

A He had been on the job, I would say, about eight months.

Q What was Mr. Screen's job title?

A A trainee.

Q Can you tell us, please, how did Mr.Screen work out?

A Well, Mr. Screen didn't work out. We had several incidents where the contractor came and complained about Herb and I took up and had a talk with him about it, and at the end of it the contractor come and said that he wanted to discharge him, and I said, "Can I talk to him," I said, "and try to straighten it out?"

He said, "No. He said, "Look, it's four or five times you talked to him."

Q What were some of the incidents? Do you recall?

A Yes. There were several. The main one was the one where he let a pump go down in a hole --

MR. DEVORKIN: I object if the man is testifying what somebody told him. If he is testifying from his own observations, fine.

Q Do you know this of your own knowledge?

A How I know is -- in other words, I wasn't there when this happened but the general foreman for the laborers came over to me and said to me, "Bob" --

MR. DEVORKIN: I object, unless it is coming in as to what he did and not for the truth.

MR. BRADY: This is the reason why he was discharged.

MR. DEVORKIN: For that purpose only, I don't object.

THE COURT: We will receive it showing why he was discharged, not necessarily that he was responsible for it.

Q Go ahead.

A I was told that the pump that he was told to watch, they had two men there, the pump man and him, and the pump man has three or four pumps and this man to assist him. That's to hook up the hoses, disconnect the hoses, any minor repairs that have to be made

on it, they would do this job together.

He was told to stay by the one pump while the man went and gassed up the other one. Herbert left the job, from what the man told me, and the pump went in the hole and almost injured three fellows, and when they went and looked for Herby they couldn't find him for over 45 or 50 minutes. And the guy come to me and told me about it and I got a hold of Hetb and I told him about it.

I said, "What are doing leaving" -- so, anyway, that was kind of quieted over at that time, but that was the reason, in other words, that they wanted to lay Herby off. And then he was warned and I told him, "Herb, stay there, don't leave here, because this will be it."

And the contractor, the man, the field man, came out and got me this afternoon and about -- that's about three days later -- brought me over and showed me Herby, sleeping on a beam, and he said, "I want the man discharged," and that'swhat happened.

Q What time of day was this?

A That was around 1 o'clock, 1:30.

Q In the afternoon?

A Yes.

Q Did you tell Mr. Screen the reason for his discharge?

A Yes, I did.

MR. BRADY: I have no further questions, your Honor.

MR. KENNEDY: I have no questions.

MR. DEVORKIN: I have no questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. BRADY: We call Mr. Earlie Johnson.

E A R L I E J O H N S O N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Johnson, for the record, what is your race?

A Black.

Q And are you a member of Local 15?

A Yes.

Q Operating Engineers?

A Right.

Q How long have you been a member?

A Since the seventh month of '72.

Q At the time you became a member did you have any experience in the jurisdiction of Local 15?

A As a laborer or what? Construction?

Q Construction.

A Yes. As a laborer.

Q How long had you been a laborer?

A For 20 years.

Q Twenty years?

A Right.

Q Could you run equipment during that time?

A Some type of equipment?

Q What could you run, sir?

A Like bridge machine, pavers, steel mount machines, so forth, like, you know, for road work mostly.

Q Did you work around other equipment in the industry?

A Well, yes, I did.

Q When was the first time you contacted Local 15? When was that?

A I believe it was 1970 or '71.

Q Who did you talk to?

A Who did I talk to when I contacted the union?

Q Yes.

A Mr. Murphy.

Q Danny Murphy, was it?

A Yes, it was.

Q What did you tell him or what did he tell you?

A Well, I explained to him the work that I was doing, what I was interested in, and I would like to become to be an operator and what procedure would I have to go through to be an operator and I understand that they had the school.

So I asked could I get on the list to come to school.

Q Were you put on the list?

A Yes, but it was at a period of time, like a waiting time.

Q And when did you enter the school, Mr. Johnson?

A I believe it was in '71. It was 1971.

Q At the same time were you still working as a laborer?

A Yes.

Q Did there come a time when you received some work under the jurisdiction of the engineers while you were still in school?

A Yes. Like I stopped being a laborer after

I was in school and then I started to receiving work as an operating engineer.

Q How long were you in school before that happened?

A A few months I was in school. Then I started to go out on work.

Q Did there come a time when you successfully passed the test at school?

A Yes. When I was graduated to get my book.

Q How long did it take you to go through the school, Mr. Johnson?

A The time that I was in school to graduate?

Q Yes.

A Figure on almost a year, not quite but almost.

Q Did you receive your union book then, when you got out of school?

A Yes, I did.

Q Have you been referred out as an operating engineer since that time?

A From the time I started in school? Yes, I was working when I got my book.

Q Do you have any connection with the school at this time?

A Yes, I do.

Q What is that connection?

A Now I am an instructor at the school as far as teaching the other guys that are in school now.

Q How long have you been an instructor?

A Since '72. After I got my book, then I was brought in to start, I was -- started instructing right after I got the book.

Q How often do you go to the school?

A Once a week; every Saturday.

Q At the school, Mr. Johnson, are all trainees tested before they graduate?

A All men are tested before they are graduated, whether they are trainees on the job or whether they are in school and not trainees on the job.

Q They are all tested?

A Before they get their book.

Q Are you familiar with Mr. Keith Wilson?

A Yes, I am.

Q And have you instructed Mr. Wilson at the school?

A Yes, I do.

Q Do you know how long Mr. Wilson has been out at the school?

A Not offhand but I have been seeing him for the last year or two, around the school; not every Saturday, but he is like in and out.

When I say "in and out," he is not there every Saturday.

Q Have you had an opportunity to observe the progress Mr. Wilson is making?

A Not that -- I've had the opportunity, but as far as when you say reserve -- meaning what?

MR. BRADY: Let me withdraw that question.

Q Do you see Keith Wilson operating the equipment?

A Yes.

Q And do you have an opinion as to his ability?

A Right.

Q What's that opinion?

A His opinion as being an operator is not good, meaning that he will -- to me he is not an operator to go out and do a day's work, to hold a decent job.

Q Have you had the opportunity of testing Mr. Wilson?

A Not to give him a test to graduate, no, I haven't.

Q But you have observed him operate?

A But I've observed him operate.

Q Do you know Mr. Herbert Screen?

A Yes, I do.

Q Is he presently a member at the school?

A Yes, he is.

Q And have you had the occasion to observe Mr. Screen operate?

A Yes, I have.

Q What's your opinion as to Mr. Screen's ability?

A As far as operating the equipment, I don't think that Mr. Screen is qualified to be an operator also.

Q Do you know how long he's been at the school?

A If I can recall, I believe that he was a student just before I graduated, I think.

Q It has been your observation that the length of time it takes a man to complete the course depends upon his ability?

A I would say yes.

Q Do some people have a knack for it and others don't?

A Right.

Q And you yourself, Mr. Johnson, have you been able to successfully work at this trade?

A Yes, I have.

Q Approximately how much money did you make last year?

A 27,000, I think.

Q How much did you make the year before; do you recall?

A Twenty-three or 24.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Johnson, prior to making contact with Local 15, what specific kind of equipment had you worked on as a laborer?

A I worked on bridge machines, I worked on steel mount machines, I worked on dry-mix pavers, and that's about all as far as -- until I came to be an operator myself.

Q That isn't Local 15 equipment, is it?

A Yes, it is. Excuse me. When you speak

of Local 15 work, the equipment that I was working on at the time, it wasn't in the Local 15 district but it's our work.

Q Where was that?

A It was on the Island.

Q What is a bridge machine?

A Excuse me?

Q What is a bridge machine?

A That's a bridge that -- a machine that you use to oppose, like bridges over water, over anything there is a bridge.

Q How do you operate a machine like that?

A Well, it has an engine on it and it has belts that run the concrete out into the district.

Q How do you operate a dry-mix paver?

A Well, it's the same as you would a backhoe or a payloader or whatever, in a way of speaking.

Q Who was it that you first talked to when you went to Local 15?

A Mr. Murphy.

A Johnny Murphy or Dan Murphy?

A Dan Murphy.

Q What questions did he ask you when you first went to see him?

A Well, I am the one that asked him questions. He didn't really ask me questions until I asked him first.

Q What did you ask him?

A I told him what I was interested in, what I'd been doing and what I would like to do.

Q Did you tell him that you had operated that equipment before?

A Yes.

Q Did he say anything in response?

A Well, I mean there was, like a waiting list. But as far as getting to the school, I explained that I would like to get into the school so I could learn it all, so I could know what, you know, I could be able to cover any piece of equipment that I might be sent out on.

Q Was there some other equipment that you didn't know how to operate?

A Yes, there was a lot of equipment that I didn't know how to operate.

Q Did you ask to be sent out on the equipment that you knew how to operate?

A No. I asked to go to school first to learn.

Q But you never asked for a job on equipment that

you knew how to operate?

A No, I never asked for -- I asked to go to school to learn it all so I could be able to cover it all.

Q When you started to school did you ask to be sent out on equipment that you then knew how to operate?

A No, I wasn't. I was -- when I was ready to graduate, when I was ready, before I graduated, when they noticed that I was able to cover the job, they send you out theirselves.

Q They make a determination when you are ready to go out, is that correct?

A Right. You don't ask to be sent out on a particular piece of equipment.

Q But at the time that you started in the school, is it accurate to say that you did know how to operate certain equipment?

A Yes.

Q That was in Local 15's jurisdiction?

A Right.

Q How many days a week did you go to the school when you started the school?

A One day a week.

Q And when you started the school what did you do the other days of the week?

A I worked.

Q What kind of work?

A I worked as a laborer until I was able to go out on equipment.

Q How long did you continue to work as a laborer?

A When I got, when I was sent out on a piece of equipment, then I stopped laboring.

Q How long ago was that?

A I don't remember exactly how long, but --

Q Couple of months?

A Few months.

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Q Were you doing this work in New York City?

A A Yes. I mean in New York City, that is Nassau County?

Q Where were you doing the work at that time?

A New York City and Suffolk County, both.

Q Wnat were you getting paid at that time?

A As what?

Q Laborer.

A The rate at that time?

Q The rate at that time when you were starting school?

A I believe it was seven and change. I don't know exactly.

Q Do you know what the people operating bridge machines or dry-mix pavers for Local 15 were getting at that time?

A No, I don't.

Q Do you know if they were getting more?

A They were getting more than I was getting.

Q During these first couple of months you never asked Local 15 for work in their jurisdiction that you know how to do on different machines?

A It was like obsolete at the time. This was like years ago when I was on these machines.

Q But they were doing this work on the Island?

A Yes, they was.

Q You said you are on school about a year, is that correct?

A Somewhere around there.

Q About how much work under Local 15's jurisdiction did you receive during that year?

A Well, when I started to work out of 15, as I said before, the two months that I was working as laborer until I started in 15 I worked continuously.

Q What kind of work were you sent on?

A On the backhoe.

Q The first time were you sent on the backhoe?

A You ask me the first job I went on was well points, I am sorry.

Q How long did that well point job last?

A About eight or nine weeks.

Q What was the next job?

A Backhoe.

Q At that time about how much training had you had on a backhoe in school?

A Up until I was sent on the first job how much training had I had on the backhoe?

Q Prior to getting that first job.

A From the time I went on well points I was on the backhoe.

Q Perhaps you didn't understand my question.

In the training school --

A Right.

Q You said the first job was well points and you got that while in the training school and the second job was the backhoe?

A Right.

Q At the time you got sent on the backhoe job had you had any training on Saturdays at this school before that on the backhoe?

A Only on Saturdays when I was at the school.

Q About how many Saturdays had you been instructed on the backhoe at that time?

A From the first eight or nine weeks I was working and while I was on well points I used to work every day on lunch on the backhoe and the dozer on the job I was on.

Q As far as you were concerned when you were sent on the backhoe were you able to operate it?

A Yes, I think so.

Q You didn't have a book at that time?

A No, I didn't.

Q Do you know where this well point job was?

A Yes.

Q Where was that?

A Starrett City.

Q Brooklyn?

A If you say it is Brooklyn. Like Long Island, is that Brooklyn?

Q Did you get a book immediately upon graduating from school?

A As soon as the time limits it takes to mail it from the time you go in and sign up for it.

Q In your experience as instructor at the school and before that as a student --

A Yes.

Q -- does everyone who graduates get their book immediately upon their getting out of school?

A Excuse me?

Q Does everybody who graduates from the school get their book immediately thereafter?

A When they graduate, that is the purpose of their being graduated, so they can get their book.

Q Is there any requirement they have to have a job at that time?

A Well, most -- when they graduate they are

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employed, they are mostly working.

Q Some of them aren't?

A I can't say exactly.

Q There is no requirement, is there, that one has to be working at the time one graduates?

A This I can't say.

Q What other kinds of jobs did you have while you were at this school?

A Laboring is the only one, construction.

Q What kind of work did you do?

A Laborer, like a helper on the machines.

Q Describe for us the kinds of work that you are actually doing on those jobs?

A We built like the Expressway, quite a few bridges, quite a bit of parkways. As a laborer, you do probably so many different things unless you are maybe with a machine and you just stay with a machine. But with my type of work I did mostly quite a few things as a laborer.

Q That is while you were under Local 15's jurisdiction?

A After I got my book?

Q Before you got your book, while you were in school what other kinds of jobs?

A That is all.

Q How soon after you got your book did you get a job as an instructor at the school?

A It wasn't too long.

Q About how long, if you know?

A A few months, maybe.

Q What did you do during those few months?

A I stayed home.

Q What kind of work were you doing during those few months?

A Operating a backhoe.

Q Any other equipment you were operating?

A Dozers, loaders, cherrypickers.

Q Do you have a cherrypicker license?

A Yes.

Q Between the time you got out of school and the time you started as an instructor, about how much time would you say you had on a backhoe and how many jobs and how long were those jobs?

A Well, when you say how long on the jobs, you mean what? How long did I stay on the one job?

Q About how many months' work did you have on a backhoe before you got the job as instructor at the school?

A From the time that I started from the -- before

the time I graduated I was on backhoes.

Q You said there were a few months between the time you graduated from school and you got called back to school to be an instructor?

A Right.

Q You said you worked these, during thisperiod of time, you worked on a backhoe and cherrypicker and dozer.

About how many months during those couple of months did you work on each of thesepieces of equipment?

A I mostly put time onthe backhoe but I worked other machines like on the same job. I might switch with some of the guys and run his machine and he would run mine but mostly I was assigned the backhoe.

Q You would switch from one piece of equipment to another? How did you do that?

A If you were working on the same job and I said, "Let me run the machine and you run mine, I will let you run mine."

Q Could you do that for a whole day and switch with somebody?

A It depends on whoever you want to switch with for a little while. It depends.

Q If you did that, did you have to call back the

hall?

A No. If you were on the site and want to run my machine to get used to it I will let you run it and I will run yours for a little while if you have a license to do it.

Q What month did you graduate from the school?

A I think it was July.

Q What year?

A 1972.

Q And what month did you actually get hired as an instructor at the school?

A A few months after I graduated.

Q Would that be before the winter?

A Just somewhere around the winter, I guess.

Q What equipment have you seen Keith Wilson operate?

A Where?

Q At the school.

A I have seen him on all of them, all the equipment that we have at the school, I will put it that way.

Q In your opinion would he be an unsafe operator?

A I would say yes.

Q You wouldn't send him out to a job?

A I wouldn't personally. I would -- excuse me,

I would send him out on a job but for personally doing a day's work, he wouldn't be able to do it, I will put it that way.

Q Why would you send him out?

A That is why I correct it, when I say, when you ask would I send him, personally I wouldn't because it wouldn't be safe.

Q Where have you seen Mr. Screen operate?

A At the school.

Q See him do any mechanic's work?

A No, I haven't.

Q Anyone receive any training as a mechanic at the school?

A At school?

Q Yes.

A I can't say yes on that.

Q Have you ever seen Mr. Henlon operate, John Henlon?

A The name doesn't hit me right off.

Q Do you know if Mr. Henlon was ever in school when you were there?

A Some names I forget like offhand, but I don't think I place that name.

Q Did you ever see Mr. Pratt operate?

A Yes.

Q What equipment have you seen him operate?

A Same as at the school, as the rest of them.

Q Do you know if he is a good operator?

A Well, he was in the school together with me and I can't really say that if you and I were at the school together, I can't watch you and do what I have to do myself.

Q Did you ever see Mr. Joquin operate?

A Yes.

Q Do you consider him to be a good operator?

A Well, I would say in between, you got some good and some bad.

Q Would you send him out on a job?

A Would I send him out?

Q Yes.

A I would say no, as far as my opinion. Then I would say yes,for certain pieces of equipment maybe.

Q Do you know Mr. Hector Marr?

A Yes.

Q Did you see him operate equipment?

A I have seen him operate at the school.

Q Would you say he was qualified to operate?

A When you say qualified to operate, let me get this clear. When you say qualified to operate, it depends

on what you might be doing, what work you might be called to do.

Q What was he taught at this school?

A At the school he operated enough to graduate for the basics what we give you to do. When you go out on a job it is a different story.

Q In your opinion when a man graduates from school doesn't it mean he is qualified to work?

A Yes, he is qualified to work when he graduates, but what I am trying to say is when you speak of certain names that they are qualified to operate -- are you listening?

They can operate,but when they go on the job they might see it different. That is what I am trying to explain. But in my opinion he is qualified to operate.

Q Do you know Mr. Danvers, Garfield Danvers?

A Yes, I know Garfield.

Q Have you seen him operate?

A Yes, I have seen him at school.

Q Is he qualified to operate?

A Qualified to graduate from school.

Q Mr. Palomino?

A Yes.

Q Is he qualified to operate?

A He is qualified to operate.

Q Did you see him operate on job sites?

A I have never seen him operate on job sites.

Q Did you ever see Mr. Danvers operate on a job site?

A Not on a job site.

Q Do you have cherrypickers at the school?

A Yes.

Q How many?

A We have one.

Q How long have you had that at the school?

A Offhand I can't give you an exact answer.

Q To the best of your recollection?

A For a year or so, two years at least.

Q Everyone gets training on the cherrypicker?

A Every piece of equipment we have.

Q All get training on cherrypickers as well?

A Yes.

Q People who get training, are they told to get a licensing test, if you know?

A Are they told to take a licensing gest?

Q Yes.

Q They are taking the test before they -- not on the cherrypicker. That means you don't take a test, you

get your book. That is a different category.

Q You don't have to take the cherrypicker test to get your book?

A To get your license. I mean, like you are getting a book you don't take your license at the same time.

Q Let us go over that. Is it correct to say that you need to pass a City licensing test to get your --

A Cherrypicker license.

Q To operate the --

A Not to be able to operate it. You take a test, you are given the test at school to get your book.

40 Now, when you can you have to pass the test to be able to operate it, so you have to take another test to get your license.

Q But you don't have to get your license before you get your book?

A This I really wouldn't say. Maybe some people have the cherrypicker license don't have the book, I don't know.

Q But do all the people who get their book and graduate have to have a cherrypicker license?

A That is what I am saying, I only know what happens at the school. I don't know as far as the cherrypicker

license.

Q Are you familiar with the Local 14 training school?

A No, I am not.

Q Have you seen it?

A It is there, but I am not familiar with it. It is the same place that we are.

Q It is the same place? How close is it?

A It is a distance between one side of the road and the other side of the road.

Q Have you ever sent any people from your school to get training on the Local 14 equipment?

A No, I haven't.

Q Have any people ever asked you if there is any way they could get that training?

A Well, no.

Q No people in the school ever asked you if they could?

A They wouldn't come to me to ask me, I couldn't exactly give an answer, anyway. They have to ask one of the business agents that question. They don't come to me and ask.

Q The school, is that on a piece of publicly-owned property? What property is this, if you know?

A I think it is owned by the Port Authority, I am not sure. I don't know exactly.

Q Any buildings right around the school or is it an open lot?

A We have a lot and trailers.

Q Have you had any discussions with anygody in Local 14 or Local 15 where they told you that people in your school couldn't go to the Local 14 school?

A No, I haven't had any questions come up. I never was interested. I am only interested in what I am in.

Q Would you describe for us, tell us how many pieces of equipment must you operate to pass the test at the school?

A How many pieces?

Q Yes.

A Every piece that we have in the school,we have to be able to pass the test on all the equipment to pass the test.

Q Can you name for us all those pieces?

A Well, we have a cherrypicker, we have a D-4 dozer, a D-7 dozer, a 966 loader, a 955 loader, we have a 977 loader, we have a 980 loader, sometimes we have a 988 on the job, and these are the pieces that we have to learn, and the backhoes.

Q Can you describe for us the training that you gave a new man who comes into the school?

A Can I describe?

Q Describe it for us. When a new man

comes into the school can you describe for us how the training starts and how it progresses?

A I can talk to them and see what they -- you mean when they start the school or come to get in the school?

Q No. When they actually start the school. How does the actual training work, the first day a new man arrives and he is in the school?

A The first thing, we will take them out and put them with someone that has been in the school already that knows a little bit about the equipment to let them work with these guys and we watch and see whether they are safe to be on the machine for a period of time alone or whether we should be sitting there beside them and showing them the levers, what to do and how to do it. This is what we do at the beginning.

Q You let some guys operate the equipment on their own at the school?

A No. We have soemone -- this is why we are there, to watch them, to look over them. It's why we put them with someone that's been on the equipment before they was there.

Q How many other instructors are there at the school?

A How many others?

Q Yes.

A There is five or six others.

Q Any other black instructors?

A Yes.

Q Who are they?

A One is Charles Goggans and Jesse Waynes.

Q Do you usually put a new man on any particular piece of equipment and then change them off to another one? Do you have any order in which you train the people on the equipment?

A You mean in the same day or the time limit.

Q Over a period of time, however long it takes. How do you decide which piece of equipment he goes on feirst or second?

A Say you came in before I did and you were sent out on the last backhoe, then that makes me come in last. I might have to go out on a dozer or a loader. Whatever is in the yard, that is what they are assigned to go out on.

Q Are you paid a salary for being an instructor?

A No, I'm not.

Q Who do you report to at the school?

A Who do I report to?

Q Yes.

A When I come in, I report to one of the business agents, whoever is there that we can, and also report to -- the business agent; that's all.

Q Is there any particular business agent who is considered your supervisor?

A Well, it depends on who is there that week. They takes -- they alternates.

Q When you became an instructor in 1972 were there any other black instructors at that time?

A Yes.

Q When you started in school were there any black instructors?

A Yes.

Q Who was there at that time?

A Jesse. Jesse Waynes.

Q Was he the only one at that time?

A They had another guy that was Brown, I think the last name -- the first name was Nathan -- Brown.

Q He is no longer there?

A Yes, he is there. Sometimes like you know you have got some guys might fill in when a guy don't show. It's like if you don't show, your partner

might show for you.

Q You said you received no salary for being an instructor.

Is there any other kind of compensation you receive for being an instructor?

A I don't guess so.

MR. GLASSMAN: No further questions of this witness.

MR. BRADY: I just wanted to clear up one thing, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Johnson, when you talked about when you were in school and you were working as a laborer, that was under the jurisdiction of the laborers union that you had been in for some 20 years, isn't that so?

A Right.

Q Then after you were in school for a few months, then for the first time you were assigned out?

A Right.

Q On a 15 job?

A Right.

Q On a 15 job?

A Right.

Q The wellpoint job?

A Then I was signed out as 15 then.

Q And then the backhoe?

A Right.

Q Right.

Now, for the period of time that you have been an instructor, have there been a number of black students at the school?

A Yes.

Q And have you paid particular attention to the black students, to assist them?

A I have paid attention to every man.

MR. BRADY: I have no further questions.

THE WITNESS: Thank you.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Ferrantello.

P H I L L I P F E R R A N T E L L O, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Ferrantello, are you a member of Local 15, the Operating Engineers?

A Yes, sir.

Q Are you associated with the apprentice training school?

A Yes, sir.

Q How long have you been so associated?

A About four years.

Q And what do you do at the training school?

A Well, I assign the men to the machines, send them out.

Q Are you an instructor?

A Yes, sir.

Q Tell me, four years, is that the entire time that the school has been operating?

A I believe it's been four years, yes, sir.

Q When the new man comes into school, is he told anything?

A Yes, sir.

Q What is each man told?

A Well, they are told that they have to be there every Saturday, rain, shine or snow. If there are five absences, after five you are out.

Q Are they five unexcused absences.

A Yes, sir.

Q Is every man told that?

A Yes, sir.

Q Do you know a man named Perry McOueen?

A Yes, sir.

Q Do you recall when he first came to the school?

A It's over two years ago.

Q Do you know if Mr.McQueen was given that same instruction?

A Everybody is.

Q What do you recall about Mr. McQueen in school?

A Referring to what?

Q Well, his attendance.

A Well, his attendance was very bad, very bad. He had been told time and time again either get in or get out, one of the two.

MR. DEVORKIN: I object unless this man told him that.

THE COURT: Did you tell him?

THE WITNESS: Yes, sir.

Q Did you have an opportunity to see Mr. McQueen operate equipment?

A Yes, sir.

Q Was he able to operate competently?

A Very poorly.

Q Very poorly?

A Yes, sir.

Q What did Mr. McQueen say to you, if anything, regarding his absences from school?

A Well, nothing. We have, you see, if you are working, that's an excuse, or you are sick, right? And that's it. That's the only two excuses allowed.

A So if you are absent, you are absent, there is nothing said.

Q Did Mr. McQueen ever come back to school a second time?

A Yes, sir, I believe he did. He was put out of school and then I think we give him another chance and he did come back.

Q What happened that time?

A The same thing. Absences all the time.

Q And at that time could he operate equipment?

A No, sir.

Q In your opinion, is he able to go out in the field and give a contractor a day's work?

A No, sir.

Q On any piece of equipment?

A No, sir.

Q Have you seen Mr. Keith Wilson out there?

A Yes, sir.

Q Your opinion as to his ability?

A Very poor.

Q Do you recall Mr. Clement Pratt?

A Yes, sir.

Q Mr. Pratt had some Army experience when he went to school, is that so?

MR. DEVORKIN: I objec to him leading the witness.

MR. BRADY: All right. I'll withdraw it.

THE COURT: All right.

Q Give us your observations of Mr. Pratt's --

THE COURT: You do have a question, you know, of trying to cover as many witnesses as you can, counselor, and not have this case go over for two or three months. I just wanted to make that point. Therefore, I'll permit a certain amount of leading by the government and by the unions.

MR. DEVORKIN: Very well, your Honor.

Q Do you recall Mr. Pratt?

A Yes, sir.

Q And he could operate certain equipment, could

he not?

A Yes, sir.

Q And how would you rate his operating of that equipment compared to Local 15 men?

A Well, I would give him a fair rating.

Q Fair?

A Yes, sir.

Q And how about on the backhoe? Do you recall if he operated the backhoe at all?

A Yes, he did.

Q How about Mr.Screen? Do you recall Mr. Screen? He is still at the school, isn't he?

A Yes, he is. He is there every Saturday.

Q He has been there for --

A Quite a while.

Q -- a couple of years?

A Yes.

Q Have you got an opinion as to his ability?

A Very poor.

Q Mr. Ferrantello, is it true to say that the only reason men are terminated from school is because of absence?

A No, not really.

Q What other reasons?

A They just decide to quit themselves, some of then have quit themselves.

Q But in so far as the school itself is concerned, is there any time limit that that man has to attain proficiency?

A No, sir. It's up to the man's own ability himself. Some of them pick it up fast and some of them stay there forever, I guess. Just can't pick it up.

Q As a matter of fact, there is a man that's been there since the school opened, isn't that true?

A Yes.

Q What is his name?

A Valdemar Borrero.

Q Mr. Borrero shows up most Saturdays, doesn;t he?

A Yes, sir, he does.

Q And he has been permitted to attend the school now for four years?

A Yes, sir.

Q And is each man given every opportunity possible to pass the test and to get a book?

A Yes, sir. It's a fair test. Any man should pass it if he can learn the machines.

Q And is each and every man, whether he is white or black or Spanish surnamed tested at that school before he graduates?

A Yes, sir.

Q And must each man pass that test?

A Yes.

THE COURT: The test is the same for everybody?

THE WITNESS: Yes, sir.

Q Is it safe to say that there is a varying degree of ability between operators, even when they graduate from school?

A Yes, sir, there is.

Q Some are more expert than others?

A Yes, sir.

Q And is it safe to say that in the construction industry, some jobs with the same equipment may be more difficult than others?

A Yes, sir, that's true.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Sir, when did you first become an instructor at the school?

A When the school first began. About four years.

Q What date was that?

A I beg your pardon.

Q What date was that?

A Jeez, I know it was in the falltime, about four years ago.

Q '70 or '71?

A I think it was about '70.

Q Who asked you to become an instructor?

A The business agent.

Q Which business agent?

A Dan Murphy.

Q Is Dan Murphy around the school?

A Yes, sir.

Q Is he the one that sets up the test?

A Well, all the instructors in general get together and we make up, we set up the test ourselves, and he gives his approval.

Q He has the final say on that?

A Yes, sir.

Q Is he the one that decides how many pieces of machinery a man must pass a test on to graduate?

A Yes, sir.

Q By the way, how many pieces of machinery must a man pass a test on to gradauate?

A Everything in the school.

Q Everything?

A Yes, sir.

Q What is there at the school?

A 980s, 977, 955, D-7, D-4, backhoes and a cherry-picker.

Q And the man can't leave until he passes each piece of equipment?

A Yes, sir.

Q When he does pass each piece of equipment, does he automatically get his union book?

A I don't know. That's up to the union.

Q Well, do you tell --

A I imagine they do get it because they go out to work and I guess they work and the union gives them their book.

Q They have to get a job first?

A No. When they graduate the school they go

down to the union. I believe they send them out to work. I don't know. They give them their book first. That's up to the local, it's not up to me.

Q When a man comes to the school for the first time, what, if anything, do you tell him about getting into the union?

A Do I tell him about getting into the union? Nothing.

Q What, if anything, is he told by anybody at the school about getting into the union?

A Well, that's the original --

THE COURT: How would he know?

MR. DEVORKIN: He might have heard someone else.

THE COURT: Then ask him.

A That's the original idea, for him to come to the school to learn to operate the equipment, and from there to get into the local. That's why he is coming to the school.

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Q Who told you that?

A That is the reason we got it.

Q Who told you that?

A Everybody knows this, all the local knows. The local told, the business agent told me.

Q When a man first comes to the school is he given an introduction or an opening speech by anybody?

A Yes.

Q Who does that?

A I do.

Q Anybody else?

A The business agent also.

Q Does anybody besides yourself say anything to the man that you may have heard about whether he gets his union book and when he gets it?

A No, sir. The business agents tell him that. That is up to the local.

Q Have you heard the business agents tell him that?

A Yes, a couple of times.

Q At the school?

A Yes, sir.

Q What have you heard the business agents say?

A That if they took out good, they run the machine,

they will get their book, and that is it.

Q Has the test always been the same at the school?

A No, it changed recently.

Q What was done recently?

A We cut the time down a little bit.

Q From what to what?

A About 15 minutes, I guess, because it used to take too long to go through the whole day. The men didn't eat, the person taking the test. We figured we would cut the time on it and they can have their coffee time and lunch.

Q That is why you cut the time down?

A Yes, sir.

Q Has this school had the same rule with respect to the number of pieces of equipment a man must pass a test on?

A Yes, sir.

Q Have you always had the same number of pieces of equipment at the school?

A No, sir, not all the time. We started in and we kept growing and growing.

Q How many did you have at the beginning?

A About six or seven pieces.

Q How many difference pieces or kinds of machines?

A Bulldozers, backhoe, loader.

Q One of each?

A No, two each or three of each, about six or seven pieces all-told.

Q But both bulldozers were the same kind?

A Yes.

Q And both loaders were the same kind?

A Yes, sir.

Q And both backhoes were the same kind initially?

A Yes, sir.

Q And the person had to pass a teston three pieces of equipment initially?

A Yes.

Q When did you first get more than three pieces of equipment?

A As we start growing, we start getting more pieces and different types.

Q Let us take a year after the school began, how many pieces of equipment did youhave, different kinds of pieces?

A Quite a few.

Q A dozen?

A No, we had more than a dozen. We have 19 now, so we must have had 15 at the time.

Q All different kinds of machinery?

A Not different kinds. We have backhoes, two different types; loaders, we have two different types; and a cherrypicker.

Q One type?

A One type.

Q How many types of dozers?

A Two different types.

Q When you had those at the school the man had to pass a test on each type?

A Yes.

Q Do you teach the men anything about safety out there?

A Yes, that is the first thing all the time.

Q How do you do that?

A We talk to them about that, on every piece of equipment there is a safety lever and that is the first thing he is supposed to learn before the moves that machine.

Q Where is that instruction actually given to the men?

A Right there on the machine before he gets on there.

Q Is Mr. Pratt a student at the school?

A Yes, sir.

Q How long was he a student at the school?

A He was there over a year.

Q What kind of machine did he get his experience on at this school?

A The machines that we have today, the same machines.

Q All of the machines?

A Yes.

Q Did he go to school regularly?

A Yes, sir, pretty regularly.

Q Was he a good student?

A Yes.

Q Did he pass a test or take a test when he first came to this school?

A Yes, when he came down to get into the school he takes a test.

Q Each man does that?

A Yes.

Q Did he pass those tests?

A No, sir, that is why he got into the school.

Q Did he pass any of them?

A No, sir.

Q When is the first time, if you remember, he passed on any piece of machinery?

A It is pretty hard to say. I don't know.

Q After about a year or so?

A Should be about a year, yes.

Q That is the first time?

A I guess so.

Q And if a man can't pass a test on a piece of machinery is he a safe operator to send out on a job?

A No, sir, he is not.

Q He shouldn't be sent out?

A No, sir.

Q In your experience as an instructor or operator if the man is a safe operator on a grader, would he be a safe operator on a dozer?

A Yes, sir, he should be, because when you are safe on one machine you are safe on all of them.

Q If you are safe on a scraper you would be safe on everything else?

A Yes, sir.

Q You don't have any scrapers at the school, do you?

A No.

Q Any graders?

A No, sir.

Q Do you know if Mr. McQueen is a member of Local

15 now?

A No, sir, I don't.

Q Is he qualified to be a member of Local 15?

A I don't think so.

Q Never graduated from school,is that right?

A No, sir, I don't believe so.

Q If a man begins at your school and isn't able to graduate for some reason, is there any way he can get into the union?

A I don't believe so.

Q That is the only way?

A Yes, sir.

Q That is true of black and white?

A Yes,sir.

Q Did you ever see Mr. McQueen operate machinery on the job?

A No, sir.

Q Did you ever see Mr. Wilson operate a piece of machinery on the job?

A No, sir.

Q He would not be qualified to do that, would he?

A I don't believe he is, he is a poor operator.

Q Unsafe to send him out?

A I believe so.

Q Have you ever visited anybody else's training school for operating engineers?

A No, sir.

Q Have you ever read anything about training engineers?

A Yes,sir.

Q What did you read?

A A school that Local 25 operates.

Q Where is that?

A New Jersey Turnpike in New Jersey.

Q Have you been out there?

A No, sir.

Q Do you know Mr. Joquin?

A Yes, sir.

Q Was he at the school?

A Yes, sir.

Q Is he a qualified operator?

A Poorly -- fair, I guess.

Q Would he be able to graduate from the school?

A I believe he did graduate. Yes, he did.

Q Do you know John Henlon?

A Yes, sir.

Q Did he graduate from the school?

A Yes, he did.

Q How long was he at the school?

A A couple of years, I guess.

Q Do you know Hector Marr?

A Yes.

Q Did he graduate?

A Yes, he did.

Q If a man has a job five days a week --

THE COURT: I am sorry, we will have to adjourn. We will adjourn for lunch and come back at 2 o'clock.

(Luncheon recess taken until 2.00 P.M.)

AFTERNOON SESSION

(2:15 p.m .)

P H I L L I P F E R R A N T E L L O resumed.

CROSS EXAMINATION CONTINUED

BY MR. DEVORKIN:

Q Sir, can you tell us what the reasons for missing classes at the school are that the union accepts?

A Yes, sir. If you are working or if you are sick.

Q Does that mean if you are working on a Saturday or if you are working during the week?

A No. If you are working on a Saturday.

Q There are no other excuses?

A No, sir.

THE COURT: I assume if you are getting married.

THE WITNESS: Well, that's an excuse.

Q And why was Perry McQueen expelled from the school, if you know?

A I believe it was on account of absences. He was absent quite often.

Q Do you know if he was working full time during the week during those periods of time?

A No, sir, I don't.

MR. BRADY: I'll object to this line of questioning, your Honor. The man said he didn't know why he was absent.

Q Now, besides passing the test at the school, is there any other way of getting into the union?

A Maybe there is, but I don't know of any, sir.

Q What if a man found a job --

MR. BRADY: Objection, your Honor. He said he didn't know.

THE COURT: Well, he is making some suggestions.

MR. DEVORKIN: I wanted to see how all-inclusive that is.

MR. BRADY: I am not sure that this man is even qualified to answer the questions. Certainly all he is is an instructor at the school. It has nothing to do with the administration of the union.

THE COURT: Well, he can say it, if that's the case.

BY MR. DEVORKIN:

Q Do you know how long a man must be on the job as a permanent man before he can get his book?

A No, sir, I don't.

Q Before the school was in existence, did you know how long that was?

A No, sir, I don't.

Q Did you work on permit before you got in the union?

A Yes, sir.

Q How long?

A About six months.

Q If a man currently is on a job that long and also is at your school, does he still have to pass the test at the school to get in the union?

A Well, you have the school and you have the job. You have the school; you have to pass the school to graduate. It has nothing to do with the job.

Q So if he is on the job that long and still hasn't passed the test at the school, he doesn't get the union book.

A That's not up to me, sir. I don't know.

Q If a man is expelled from the school is he allowed to shape the hall?

A I don't know that either.

Q When you first joined the union were you doing mostly operating work or mostly maintenance work?

A Operating work.

Q On which piece of machinery?

A Bulldozer.

MR. DEVORKIN: I have nothing further, your Honor.

MR. BRADY: Just a few, if your Honor please.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Ferrantello, do you have anything at all to do with the determination of when a man gets a book?

A No, sir, none whatsoever.

Q Or when he is assigned to a job?

A No, sir, nothing whatsoever.

Q In answer to some questions from counsel you listed all the equipment at the school and you listed various numbers of equipment.

A Yes, sir.

Q Does a man have to pass a formal test on each and every one of the pieces of equipment that you mentioned?

A No, sir. We haven't got no formal test of each piece of equipment. But if you run the

backhoe, well, we have got nine backhoes, so if there is two different types, you take one on one and one on the other. You don't have to run the rest. They are all the same.

Same with the bulldozers and so on.

Q Is there a formal time test that is run for the cherrypicker?

A No, sir.

MR. BRADY: No further questions.

THE COURT: Excused.

(Witness excused.)

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MR. BRADY: Mr. James Dooley.

J A M E S D O O L E Y, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Dooley, by whom are you employed?

A New York Building & Construction Industry Board of Urban Affairs.

Q How long have you been so employed?

A Since its inception, 1969.

Q Are you familiar with the role that the Fund plays and played with the formulation of the New York Plan?

A I am, sir.

Q Could you describe to the Court what that role was and is?

A The formulation of the New York Plan was a concept of the contractors and the unions to meet the minority participation in the construction industry, to allocate goals and timetables as to how these people would come in and be continuously employed. It is a continuity program.

Q Do you know how the original goals were established?

A Yes, sir.

Q Could you tell the Court how those goals were established?

A The original goals were established by the Administrative Committee of the New York Plan which consists of labor, management and minority representatives.

The goals were based on the projected construction starts from the various City and State and Federal agencies. We asked each of the agencies to supply us with projected work for the coming year.

On that basis we would take an engineering manning table done by their own engineering department --

Q Who's?

A The agency's, the Board of Education, the Department of Transportation, and they would tell us what the specific trade would be involved in and the length of time.

Q Was it based upon the number of journeymen employed and the length of time?

A The number of weeks and the length of time they would be on so many projects set forth for the coming year.

We also took into consideration how much Federal funding we could get. One of the provisions of the New York Plan was that the Plan be funded by the Federal

Government and, in fact, we have in the agreement that it be funded fifty-fifty by the State and City and nothing was to begin until we got that funding.

I might point out we never got any funding except from the State of New York, so that technically we shouldn't have even started, but the industry wanted to move ahead, so they did.

Q The goals that were originally set by the committee, do you recall what the first goal was?

A The first goal was 800 trainees for the first year of operation.

Q Now, for one year --

A First year of operation. We never said what the year was, we said the first vear of operation because everything hinged upon this Federal funding or State or City, which we never received.

Q Was that goal to be a set, permanent figure?

A No. The concept is more or less like a graduation of a high school or an enrollment of 800. As they are graduated or replaced new people come in. It was never 800 bodies maximum. It was a continuous thing.

In fact, we did it on what we call plotting. As I said, we had this agency who was going to project

how many journeymen would be used on that job for a period of time and allocated trainees, the administrative committee allocated trainees to be written into the bid specifications for those jobs.

Q But the figure 800, was this to be the figure for all time?

A No, a goal. We set it for a goal. If we reached the goal and we still needed the men, we would have done it.

Q Has that goal been changed?

A It has been increased to a thousand. Presently it is being negotiated to increase it again.

Q Do you have any idea of what the goal may be increased to?

A No, because we are in negotiations with the City on how much projected work comes out. It can only be done on projected work. You can't make promises that you can't fulfill.

Q Just what role does your Fund play?

A The Board of Urban Affairs, which is funded by the contributions of contractors through the collective bargaining agreement of the union plays the role of liaison between the industry and the governmental agencies.

We have six members of the administrative com-

mittee. There are three minority members of the administrative committee on the overall New York Plan management.

The Board of Urban Affairs, as I said, waited for funding. We couldn't get funding from the Federal, State or City, so we put on people early in 1972, people from the RTP, the recruitment and training and development program. We put them on tohelp get the program started because we kept waiting for funding which we never got.

Q Were all the parties in agreement as to the goal originally set?

A When you say all parties, do you mean the agencies?

Q The contractors, the labor organizations.

A Well, they were all -- they all acquiesced to the commitment of the administrative committee. They gave the committee authority to negotiate for them and whatever they said their goal was, they would do their earnest to meet it.

Q Would you say that they committed themselves to whatever goal was set by the committee?

A Right, we had no problem as far as commitment was concerned.

The problem that we ran into was the contractor

must make the request for the trainee because it is he that pays the trainee. The trainee would only be sent out after a written request from the contractor.

Q What did you mean by an attempt to insure continuity of employment?

A The whole concept was we would not have trainees come from one project and then go back on the street corner. The idea was to keep the trainees in a continuous training program so that they after a period of time would have enough knowledge to gain journeymen status.

We have a very good retention rate because we keep the fellows reassigned.

Q That is when one contractor's work stops --

A Right.

Q -- they go on the payroll?

A Right.

Q They are not tied to the contractor?

A They are not tied to the contractor.

Q Do you know, Mr. Dooley, how the length of the training program was determined?

A The length of the individual -- we have 17 trainees involved in training program and we allowed each union or -- I shouldn't say allowed, the only way we could conceivably do it was have each union set up a training

selection committee, which would determine the qualifications for the trainees in their particular trade.

Now, in most cases those trades that had an apprenticeship program under the State, a registered program, the trainee program would run parallel to this.

Those trades that didn't have an apprenticeship program, they would relate it to their lowest-paying job.

Q As a rate of pay?

A A rate of pay and so forth and try to gear it into it that way so that the trainee would not find a short-cut to come into the industry.

The apprenticeship program, as you know, is regulated by the State of New York, it is a very strict program, but it is a non-discriminatory program.

We did not want to sabotage that program which a great many people worked so hard for by having somebody come in the back door.

MR. BRADY: May I have just a moment, your Honor?

(Pause.)

Q Mr. Dooley, who was the first Director of the Urban Affairs?

A Mr. Donald F. Rogers.

Q Can you tell us, please, did Mr. Rogers have any

connection with any local union in the City of New York?

A He was business agent of Local 15.

Q Do you know the circumstances under which he transferred his job over?

A Well, the original concept of the Board of Urban Affairs was, as I said, joint labor-management concept and Mr. Rogers with the contractors, with union people, discussed the role of minorities entering the construction industry and said this is the time that we took affirmative action, we couldn't ignore the situation.

Mr. Rogers approached various unions and they supported the idea. He then spoke to Mr. Thomas McGuire and asked for permission to take a leave and set up his organization. Being an elected official, he couldn't give him a leave but gave him leave as a member and Mr. Rogers came into the Board of Urban Affairs and set it up.

Q What is your role in the Board?

A I am Deputy Director. I was assistant to Mr. Rogers, who since went on to become a consultant to the president.

Q Were you a member of any labor organization?

A I am from Local 15.

Q Of the Operating Engineers?

A Operating Engineers, Local 15.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Dooley, when the discussions about the formulation of the New York Plan first took place, isn't it a fact that the length of time of training was set primarily on the basis of what the length of training was in the particular local's apprenticeship program or something of that nature?

A That is correct.

Q Thus, if a particular local had a four-year program, the trainee's program was to be four years as well?

A That is correct.

Q Wages were to be set primarily on what the apprentice for that particular local got?

A That is correct.

Q And has the length of time been increased or decreased during the course --

A It has not been changed.

Q Isn't it a fact that almost all of the trainees receive books, that is, if they complete the period of time within three years?

A Yes, sir.

Q Do the unions negotiate for the trainees in collective bargaining?

A Yes,sir, they do.

Q Presumably from the time the Plan first started until today there have been increased in both the starting wages and the intermediate wages of trainees?

A That is correct.

MR. KENNEDY: I have no further questions.

BY MR. GLASSMAN:

Q Mr. Dooley, you said the goal was increased from nine hundred to a thousand?

A No, eight hundred to one thousand.

Q Why was it increased?

A At the particular time we were negotiating with the Federal Government Department of Labor for continuation of the program and they felt that revision of the training allotment, as I said, the allotments were determined by the administrative committee of the various trades based on the projection of work and that that particular year we had an office boom in New York, building office buildings, and for example structural steel had an awful lot of workers.

Three years later we were negotiating an extension, the office boom died, and the structural steel

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fellows were out of work, so we couldn't allocate more trainees to structural steel, so we had to relocate them to various trades that the projection of work showed would be increased.

Q When was the new goal set?

A In 1973, December of 1973.

Q To be effective the year 1974?

A It is not per year. We don't have any cutting-off. It is not a closed contract. It is an agreement and we keep on doing it and we re-evaluate it each year.

We have to have United States Department of Labor approval and they conducted an audit and if they are not satisfied they come in and say, "We do this and this and this to improve our program."

Q You said they conducted an audit?

A Yes.

Q Do you know if one was conducted on the New York Plan?

A Yes, it was.

Q Do you have a copy of that audit?

A No, sir, it was never returned to us by the Department of Labor.

Q Do you know the results of that audit?

A No, sir, I don't. I do know that we have been

extended continuously since the audit.

Q Have you been told whether the audit shows a satisfactory performance of the plan or not?

A Well, nothing official, because we have never been given the United States Department of Labor official appraisal but individual conversation indicated that several unions have more than exceeded their requirement, some have not met their requirement and some are completely inadequate and must go into what they call Part 2.

Q Do you know if there are similar plans in other areas of the country?

A Similar to ours?

Q Yes.

A I don't think that there was one when we were originally composed because the concept of trainees was new to the country in the construction trades.

Q Is this plan ever referred to as the hometown plan?

A The Federal Government refers to it as such.

Q Called a voluntary hometown plan?

A The Federal Government classifies it as such.

Q Why is it called a voluntary hometown plan, if you know?

A Because of the composition of the administrative

committee being labor, management and minority individuals. It is community participation as well as union participation and management participation, without any government participation.

Q Do you know if there are any provisions made by the Department of Labor for imposed plans in New York City?

A There is always in every city what they call Patt 2 of the approval plan. They approve your plan on the basis of what you present. If a union or -- well, if a union actually fails to meet the goals and timetables in Part 1, then they are automatically in Part 2.

Q Could you describe for us if you know the nature of Part 2?

A Part 2 has a percentage spelled out that the particular trade will increase its membership to a particular goal within a particular time period. That is Part 2.

Q Do you know if there are any hometown plans in other portions of the country?

A Yes, I know that.

Q Do you know if any audit reports have been released by such plans?

A Yes. I have quite a few audit reports.

Q And to your knowledge, there has not been such an audit report released on the New York Plan?

A It has not been released to us. When I say "us" I mean the New York Building Construction --

Q Have you had any discussions regarding the release of that audit?

A No, I have not.

Q Do you know if the Board of Urban Affairs has either attempted to have it released or not have it released?

A No. We would like to have it released. We would like to know what they found out.

Q Do you know if anyone in the Board of Urban Affairs has had any discussions with the Department of Labor --

A You mean directly asking for the release.

Q Yes, attempting to --

A No, because we can't order the government to do anything.

Q Do you know when the audit was completed?

A The audit was completed in October of '73.

Q I believe you stated that the goals that were set related to federal funding and federal projects, is that correct?

A Not on federal. The goals that were set were based on projection of work by various governmental agencies, whether they be city, state or federal.

Q But by governmental agencies?

A Governmental agencies, yes.

Q And projected work on governmental projects or government funded projects?

A Any aspect of government. If there was a dollar of tax released we wanted New York plan trainees on that job.

Q Is there any similar plan, if you know, for private work?

A Well, our plan encompassed some private work. We don't have it spelled out as such because in private work it is not committed into the bid contract. It would have to be voluntary on the part of the sponsor of the project.

Q Do you know what percentage of New York Plan trainees are on government-financed work?

A Ninety-five per cent. Well, government-financed would be 95 per cent or so.

Q But the goal that you talked about is not based on any projections of private work, is it?

A No, because who knows when Gimbel is going

to put up a department store or what have you.

Q Are there any sources that you know of in the industry for projecting private work?

A Well, major utilities like Con Edison have to submit a budget. The telephone company has to submit a budget.

Q Have you ever heard of the Dodge Reports?

A We get them in our office and we use them frequently.

Q What are they?

A Projections of works and bids and so forth. They are not too accurate.

Q Do they deal with private work?

A No.

Q Have you heard of BNA Reports?

A Yes.

Q What are BNA Reports?

A It's a nongovernmental agency called the Bureau of National Affairs, that publishes not only statistics but reports on governmental effects in the construction industry.

Q Do they deal with private construction?

A Well, they don't deal in projection of work, no. They have many services. The service that we

subscribe to does not deal with projection of work.

Q Do they announce any new work as it comes out?

A Not that I know of, not the BNA.

Q Do the Dodge Reports do that?

A Just the Dodge reports would do that.

Q You said the placement of these trainees originally was to hinge on federal funding, is that correct?

A Yes, sir. Not only federal funding but in the agreement there is one article of the agreement which I submitted into evidence and in the agreement you will read that this agreement becomes binding on the receipt of state and city funds on the basis of 50-50 per cent, which was not received.

Q This is funding in addition to the salaries paid to the trainees, is that correct?

A Well, the salaries paid to trainees is not funded. That's in the bid conditions. The contractor bids the job with the cost of the requirement of some trainees.

Q What type of funding are you talking about then?

A Well, we wanted to establish a training center; a central training facility, we called it.

We wanted to have staff personnel do instructions. We were never able to establish that. That is why, for example, Local 15 established their own training school out at the Port Authority property, because the New York Plan never established a training center.

The only funding that we received was from the State of New York for administrative work which is done in the processing of the trainees to the construction sites.

Q Do you know if New York Plan trainees working under Local 15's jurisdiction are regularly sent to Local 15's school?

A I believe some of them are. I don't know about regularly. I don't know what you mean by that.

Q Is there any connection at all between Local 15's school and the New York Plan?

Is there any direct connection between the Local 15 training school and the New York Plan per se?

A I don't understand the question, sir. I don't know what connection -- is there a liaison? Yes, there is a very good cooperation.

Q Is an individual who comes into the New York Plan, if you know, and who is working under Local 15's jurisdiction ever told that he can learn how to

operate equipment at the Local 15 school?

A I believe New York Plan trainees are out there already.

Q Do you know if a new trainee coming into the New York plan, is that part of his original briefing? Do you know if he is told --

A I think one of the previous witnesses stated that the profile is sent to the New York -- to the union, the Administrative Committee or the project director of the New York Plan sends a profile of the trainee to the union. I don't know if there is even personal contact between the New York Plan and the trainee.

I think it's done by the field --

Q How is the construction industry Board of Urban Affairs funded?

A The Board of Urban Affairs is funded by a voluntary contribution of one cent an hour for every hour worked of the construction workers under the various trade agreements through the industry.

Q Does that include Local 15?

A Local 15 and Local 14.

Q Local 14 contributes as well?

A Yes, sir.

Q This one cent per hour, does it come out of the wages of each Local 14 and Local 15 member that has contributed to the Board of Urban Affairs?

A It is not out of the wages.

Q How is that?

A It is matched by the employer. There is nothing taken out of the employee's wages.

Q It is matched by the employer wherever there is a Local 14 or 15 man working, is that correct?

A Right. For every hour that an employer has a Local 15 or Local 14 employee he matches those hours by pennies.

Q To your knowledge, is Local 14 a signatory to the New York Plan?

A To my knowledge, yes.

Q Is Local 15 a signatory?

A To my knowledge, yes.

Q Has Local 14 ever had discussions, if you know, with the Board of Urban Affairs relating to the placement of trainees under its jurisdiction?

A Well, they have a problem, I think, as far as licenses of their individuals.

Q Have they ever discussed possible placement of trainees with the Board of Urban Affairs?

A Well, no, because trainees are raw recruits. Trainees have no previous experience.

Q Is the rate of pay for all beginning trainees the same in every trade?

A No. Each trade is separate. The Training Selection Committee determines the rate of pay.

Q Do you know with whom in Local 15 the rate of pay has ever been discussed?

A Well, I have discussed it with Mr. Murphy, with Mr. Claudius Johnson, I think with Mr. Frank Guma.

Q Do you know on what basis the rate of pay for Local 15 trainees was established?

A Based on helper's pay.

Q Who actually made the decision as to the amount of pay?

A The unions make the decision, not the Administrative Committee.

Q You discussed, I believe, a state apprentice program earlier in your testimony?

A Would you repeat that.

Q I believe you discussed state apprentice programs in your testimony.

A Yes.

Q Could you again describe the role of

state apprentice programs in the New York Plan?

A Well, there are various trades that have a registered apprenticeship program under the Bureau of Apprenticeship Training of the State of New York. They have established a criterion of how an applicant will apply for apprentice. He must -- various degrees. I am not too sure whether it is all high school graduates, there is an age bracket and so forth.

In those trades that have a registered apprentice program, a New York Plan trainee who meets the qualifications for an apprenticeship program cannot come into the New York Plan.

Q Do you know if the operating engineers have any registered apprentice program?

A Not to my knowledge.

Q I believe you stated that the length of the New York Plan's training program was related in some way to the state apprentice program.

A I said in those trades that have apprentice programs.

Q How was the length of training, if you know, for the operating engineers set?

A Itwas selected by the Training Selection Committee.

Q Who was on the Training Selection Committee?

A The Training Selection Committee is made up of management and labor and the New York Plan representative.

Q Specifically, are there any specific individuals who would be involved only in Local 15's selection?

A Dan Murphy, I think, was on the Training Selection Committee, Claudius Johnson and a fellow from management. I can't think who it was at this time. It was one from each; labor, management and the New York Plan.

Q Was this at the time the original goals were set for the oeprating engineers?

A No. The Training Selection Committee is an adjunct of the Administrative Committee.

Q When the original length of the operating engineers' trainees program was set, who was involved in that decision?

A The Administrative Committee.

Q Who was on it at that time, if you know?

A Well, there was nobody from the operating engineers.

Q Do you know how it was established?

A Well, it was established more or less by rule

of thumb, I guess, would have to be the only way I can describe it.

Q Do you know any particular rule of thumb that was applicable to the operating engineers?

A Yes. Mr. Rogers, who was the first executive director, came from the operating engineers. And his experience in the trades, I would imagine he consulted other training programs of engineers throughout the country.

Q At the time was Mr. Rogers a member of Local 15?

A No, he had to resign from Local 15. He kept his membership but he couldn't be an elected officer.

Q But he still maintained his membership in the union at that time?

A Well, I think we all do.

Q Are you a member of a local union in New York?

A I am still a member of Local 15.

Q Local 15?

A Yes.

Q You said there are presently negotiations to continue the New York Plan, is that correct?

A That's correct, sir.

Q Is the Board of Urban Affairs representing the operating engineers in those negotiations?

A We are, sir. We are representing all the signatories.

Q Is the Board of Urban Affairs proposing any new goals for Local 15?

A Well, I have to hedge on that because we have an agreement with the city not to discuss any of this in public until we get an agreement.

Q I am not asking for the particular amount. I just want to know if there have been any particular discussions for proposed figures for Local 15.

A Yes.

Q Do you know if they are increased goasl?

A It's to be done on a projection of work, sir.

Q Do you know if that involves an increase in the future?

A Well, at the rate the construction work is right now, I would say it's a decrease, if anything. There is no work in the City of New York. If there is an increase in work there will be an increase of goals.

Q Do you know if there are any proposals being

made at the present time for more operating engineers in the future?

A I don't follow your question. You mean trainees?

Q At the present time, given the projections, have there been any proposals made for additional operating engineer trainees?

MR. BRADY: I think he just answered that.

A I think I answered it if there is more work.

Q I guess I am asking whether the Board of Urban Affairs has considered that there is more work.

THE COURT: He said today there is not; there is less work today.

Q You are trying to get the number reduced at this point, is that correct?

A No. I said we haven't the projections yet.

THE COURT: No, that's not what he said.

Q Do you know if there are any present discussions aimed at having Local 14 trainees?

A I can say that this is an entire industry negotiation.

Q Do you know if there are any specific goals set for Local 14?

A The goals I can't tell you now, I don't know. But we are talking about all the building trades in New York City, including those that are not now signatories.

Q I believe you said Local 14 was a signatory to the New York Plan, is that correct?

A That's correct.

Q Can you tell us what the significance of being a signatory to the plan is if there are no trainees?

A Well, the significance would be that they would respect the trainee on the job for one thing.

Q What do you mean by "respect the trainee on the job"?

A Well, you have a collective bargaining agreement which means that you respect that the contractor will only employ union individuals. These trainees are not union members at this time and it could feasibly be that they could be considered nonunion workers.

Q That's the only significance?

A I would -- I just throw that out. I really don't know of any others offhand.

Q Were you involved in the original negotiations to set the original goals under the New York

Plan?

A No, sir. I know how they were established but there were three individuals involved in that.

Q You are familiar with how they were established?

A Right.

Q Do you know if any government officials at that time suggested higher goals?

A No. There was no suggestion of hither goals. It was based on the projection of work.

Q There was no suggestion of higher goals at all?

A Well, you have all -- I don't know what you are leading up to, because there was no government officials in the negotiating committee on the goals. There were three individuals.

Q Isn't it a fact that the Office of Federal Contract Compliance has the responsibility for approving home town plans?

A His office, yes, they did.

Q Were there no discussions with the Office of Federal Contract Compliance in New York at the time that plan was first approved?

A Not to my knowledge, no. But I submit that the Office of Federal Contract Compliance suggested in

Chicago they put 15,000 people in the training program which lasted six months and they got 800 in or 300, or something like that, so some government officials are liable to ask for anything.

Q You said to your knowledge most people who graduate or complete the program obtain their union books?

A We have never had one refused.

Q Do you know how many people in Local 15 have gotten their books?

A 15.

Q Do you know how many people have gotten their books as of October, 1973?

A October of '73? I wouldn't have that. There were some.

Q Do you know if it was less than 10?

A I can't grab at a figure.

Q I believe you stated that Donald Rogers was involved in the original negotiations, is that correct?

A That's correct.

Q What other persons from the Board of Urban Affairs were involved in those original negotiations?

A Now, you are talking about the negotiations for the establishment of the Board of Urban Affairs.

Q No. Involved in the original negotiation

of the original goals.

A There was Donald Rogers, William C. Finneran and Lamont Godwin.

Q Are any of the other gentlemen associated with Local 14 or 15, if you know?

A There was no -- no.

Q Do you know if the New York Building Trade Council was involved in those discussions at all?

A Well, the negotiations, that subcommittee was appointed by the Administrative Committee, which the Administrative Committee had participants from the Building Trades Council.

Q Do you know who was the head of that council at that time?

A At that particular time? Mr. Peter J. Brennan.

Q Do you know if he was involved in the negotiations?

A He was not.

Q Do you know if he participated in any way in establishing the goal?

A He was not.

Q How do you know that? Have you discussed that with him?

A Well, I would -- I wouldn't say I discussed it with him personally, but I, as assistant to the executive director, sat in on all the Administrative Committee meetings.

Q Were there any discussions in establishing the goal that took place outside of the New York City area, if you know?

A Would you repeat that, sir?

Q Were there any discussions to establish the goal that took place outside of the New York City area?

A Was there discussions outside the city?

Q Discussions aimed at setting the final goal.

A I wouldn't know where they met.

Q How long have you been a member of Local 15?

A Since 1960.

Q Have you ever held an office in the union?

A An office, no.

MR. GLASSMAN: I have no further questions, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Since the plan's inception, Mr. Dooley, have the operating engineers locals ever been put into part 2 of the plan?

A No. In fact, they exceeded their goals in the report.

MR. BRADY: I have no further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

MR. BRADY: I call Mr. Israel Galarza.

I S R A E L G A L A R Z A, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Galarza, where were you born?

A I was born in Puerto Rico.

Q And are you a member of Local 15 of the Operating Engineers?

A Yes.

Q How long have you been a member?

A For two years.

Q Prior to that time did you have any experience in the line?

A I was in the Job Corps.

Q And where were you in the Job Corps?

A Jacob's Creek, Tennessee.

Q What year were you in Jacob's Creek?

A From June of '69 to 1970.

Q Was that in the Operating Engineers school?

A Yes, sir.

Q What kind of training did you get there?

A I was trained on the scraper, on the grader and the dozer.

Q Scraper and the dozer?

Now, after you completed school in '70 -- what month in '70 was that?

A That was close to April.

Q April?

A Yes.

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Q What was your first contact with Local 15?

A Send me right to the union, 14th Street.

Q Who did you speak to there?

A I saw Will Keenan.

Q What happened then?

A Then I went down to the union hall and they want to send me to work on a 988 but I didn't have experience.

Q They wanted to send you on a 988?

A Yes.

Q What kind of machine is that?

A A payloader.

Q A payloader?

A Yes.

Q Could you operate that payloader?

A No. I didn't have experience with this. They sent me for two days.

Q You worked for two days? What happened?

A I didn't have experience on the machine.

Q Were you laid off on it?

A Yes, sir.

Q Did they send you out on any other jobs?

A I was on a well point job.

Q How long did that last?

A A couple of weeks.

Q Did they send you out on any other jobs?

A After that I was a couple of weeks on the scraper.

Q How long did that job last?

A About four months.

Q Did you attend the school for Local 15?

A Yes, sir.

Q How long were you in the school?

A I was 17 months in school.

Q 17 months?

A Yes.

Q Were you tested before you graduated from school?

A Yes, sir.

Q What was the date when you graduated from school?

A It was in November, 1972.

Q During all the time that you were in school were you still being referred out to work from the union?

A Yes, I still was working.

Q What kind of jobs were they sending you on?

A The bulldozer, maintenance.

Q Mr. Galarza, have you ever had an opportunity to be a foreman?

A Yes, sir.

Q Where were you a foreman?

A I was a foreman in the Bronx. I was foreman in the well points and they had a few machines over there.

Q I didn't hear the last thing.

A I was a foreman on well points and also machines is there.

Q Foreman of machines that same job?

A Same job.

Q With all those jobs as foreman, were you referred from the union?

A Yes.

Q All the jobs as an operator, were you referred from the union?

A Yes, sir.

Q Mr. Galarza, have you experienced any discrimination from the union?

A No, sir.

Q Did you feel that you needed the training in the Local 15 school?

A Yes, sir.

Q This was after you finished the Job Corps training?

A Yes, sir.

Q If you don't mind telling the Court, how much money did you make last year, approximately?

A About 25,000, twenty-four, twenty-five, twenty-six thousand.

Q What job are you working on now?

A I am working on pumps, tibbets.

Q How long have you been on that job?

A For the last three weeks.

Q Prior to that where were you working, do you recall?

A In the Bronx.

Q How long had you been there?

A Two years.

Q What are you doing at that job in the Bronx?

A 977 payloader, front-end loader.

Q Did you work on the backhoe there?

A Once in a while I jumpon the backhoe.

Q Did you get any training on the backhoe in the Job Corps?

A No.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Galarza, when was it you graduated from the Job Corps?

A 1970.

Q What part of 1970?

A Around May -- I mean April.

Q Did you come back to New York City then?

A Yes, sir.

Q Thereafter when did you first seek work as an operating engineer?

A Thereafter I don't know the name, but it was a tunnel job.

Q How soon after you came back to New York City did you find that job?

A The next day after I was in New York City.

Q Did you find that job yourself?

A No, the union give me.

Q You went down to the union?

A Yes.

Q Somebody told you to come to the union?

A I had papers to come to the union from the Job Corps.

Q The Job Corps gave you those papers?

A Yes.

Q They told you to report to the union?

A Yes, sir.

Q Do you know what the papers said?

A No, I don't remember.

Q Had you been told there was a job waiting for you?

A No, sir.

Q Who did you speak to at the union at that time?

A Willie Keenan.

Q Did you show him all your papers?

A Yes, sir.

Q Did you tell him what you could operate?

A Yes, sir.

Q What was that?

A I was able to run a scraper and a grader, the grader not too good, but the scraper and the grader.

Q That was it?

A Bulldozer, I just moved it. I wasn't able to work it.

Q He still sent you out on a 988?

A Yes, sir.

Q You came back to the hall and got that well point job?

A Yes, sir.

Q How long did you wait for the well point job?

A From eight to ten days.

Q When that was over you got the scraper job?

A Then three days after I got laid off I got the scraper job.

Q You were on that job four months?

A Yes, sir.

Q Did you get your union book while you were on the scraper job?

A Right after I finished they sent me out and then I get my book.

Q After you finished the scraper job you got your book?

A I got another job and then I get my book.

Q What kind of job?

A Maintenance.

Q How long did youhave that job?

A About a year.

Q About a year? How long had you been on the job when you got your book?

A About the middle of the year, something like that.

Q Around about six months?

A Six or seven months.

Q When was that in relation to these jobs that you went out to the union school?

A I was going on Saturdays to the union school.

Q From the beginning?

A From the beginning -- not from the beginning. When they opened the school then I start to go.

Q In December of 1971?

A Somewhere around there.

Q So you had the scraper job and this maintenance job, they had occurred between the time you came back to New York City and the time you got into school?

A I beg your pardon?

Q You had the scraper job for four months and the maintenance job which lasted about a year?

A Yes.

Q They occurred between the time you came back to New York City and the time you got into the school?

A Somewhere around there.

Q When youwent to the school you hadn't yet received your book?

A I didn't have no book.

Q How long did you stay in the school?

A About a year and a half.

Q How long had you been at the school when you got your book, a year and a half?

A Yes.

Q Were you also getting jobs while you were at the

school?

A Yes.

Q What kind of jobs did you get while you were at the school?

A Getting a scraper, well point, maintenance man.

Q How long did these jobs last?

A Like I told you, two weeks on well points and four months on the scraper and maintenance when I get my book.

Q Did you perform satisfactorily on those jobs?

A Yes.

Q No contractor ever was dissatisfied with you, was he?

A No, sir.

Q How much money did you make in 1972, Mr. Galarza?

A It was $20,000.

Q I am sorry?

A $20,000.

Q In 1972?

A 1972.

Q And in 1971?

A I don't remember.

MR. DEVORKIN: I have nothing further, your Honor.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Galarza, you were asked when you started to go to the Local 15 school. You said December, 1971. What was the year you started the school?

A It was 1970.

Q December, 1970?

A Yes.

MR. BRADY: No further questions.

THE COURT: You are excused, thank you.

(Witness excused.)

MR. BRADY: Mr. Lanning.

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J O H N L A N N I N G, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Lanning, are you a member of Local 15?

A Yes, I am.

Q How long a period of time have you been a member?

A 26 years. I am retired now.

Q Mr. Lanning, are you in any way familiar with the training school that Local 15 has?

A Yes, I am.

Q How are you familiar with that?

A Because my sons are on the waiting list.

Q How long have your sons been on the waiting list?

A To the best of my recollection, about the middle of 1970.

Q How old are your sons?

A One boy is 21 and the other is 24.

Q Are they working in the trade?

A No.

Q For the record, Mr. Lanning, what is your race?

A White. I am a little hard of hearing.

Q Mr. Lanning, do you know of any other white members of Local 15 who have sons on the waiting list for the Local 15 school?

A I know of them. There is Louis Santora, who has a boy waiting.

Q How long has his boy been waiting, do you know?

A Approximately two years.

Q Any other white members that you know of who have sons on the waiting list?

A Yes, Frank Manor, he has two, but one boy is in the trade and one is still waiting.

Q Do you know how long they were waiting to go to the school?

A I think one had to wait over two years and the other one is around two years now.

MR. BRADY: I have no further questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Do you have any other son, Mr. Lanning, besides the two on the waiting list?

A Yes, I have three sons.

Q The two sons on the list, are they working now?

A Yes, they are. One is going to school. My

young boy is 21 and is going to college and works part-time but not in the trade. My other boy works in the City.

Q What does he do?

A He is managing editor for ABC Sports.

Q Also on the waiting list?

A Yes.

Q How old is he?

A 24.

Q When did you retire from the union?

A Two and a quarter years ago.

Q Before you retired do you know how members of the union generally got their sons in the union?

A Got their sons in?

Q Before the school was in operation.

A Well, like for me, if I had my older boy on the job, like if there was a spare machine at lunch time or maybe before hours in the morning, I would take him and instruct him what is what.

And maybe during the summer if he came out he would ride with me on the machine and I would instruct him that way.

Q How would he get in the union?

A I guess if he was qualified I could take him over to the delegate and if he thought he could get him

he would probably put him in the union.

Q Do you know this because you talked to other members of the union who had that happen?

A This is my way of going about it as a member.

Q As a member of the union?

A That is right.

MR. DEVORKIN: I have nothing further.

MR. BRADY: Nothing further.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: May I have a moment, your Honor?

THE COURT: Well, we will take a short recess.

(Recess.)

MR. BRADY: Your Honor, Mr. Corcoran is going to call a witness for Local 15.

G E O R G E C A R L S O N, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CORCORAN:

Q Mr. Carlson, will you tell us, please, what business or profession you are engaged in?

A I am a consulting actuary.

Q And for how long a period of time, Mr. Carlson, have you been so engaged as a consulting actuary?

A Well, as a consulting actuary, about 27 years.

Q And overall, how long have you been engaged in the field of actuarial work?

A That's over 40 years.

Q And, Mr. Carlson, will you tell the court, please, if you are a member of any actuarial societies?

A Yes.

Q Would you tell us what societies they are?

A The Society of Actuaries, the American Academy of Actuaries and the Conferrees of Actuaries in Public Practice.

Q And in the course of your work have you done actual actuarial work, say, for insurance companies as a consultant?

A Yes, I have worked for insurance companies.

Q What companies were or are they?

A Occidental Life, New York Life.

Q In addition to that, have you done actuarial work and been consulted by joint committees of labor and management representing unions and management jointly?

A Yes. That's principally the main business.

Q Now, some time today did I show you exhibits that were offered in evidence referrable to the testimony of a Mr.Friedman?

A Yes.

Q Did you acquaint yourself with those exhibits?

A Yes, I did.

Q I invite your attention to Plaintiff's Exhibit 1A in evidence and I request, Mr. Carlson, that you turn to page 5 of that exhibit.

I think you will note that the page t is divided into columns, starting with the column 1, being the state; column two, the county; total male labor

force being column 3; number of total population of males 25 or over with high school education or less as being column 4; and then a number of total male population of 25 or over being 5; and then the percentage column being 6, and then the last column being 7.

Now, referring to page 5 of this exhibit, in connection with the column referring to male, 25 or over with a high school education or less, if the multiple had been, say, 20 or 18, as is the figure used in our trade, would that make any change in this calculation?

MR. DEVORKIN: I object. I don't know about the witness but I have no idea what Mr. Corcoran is talking about in terms of that question.

Could you specify what multiple, the 20?

MR. CORCORAN: Well, instead of the age of 25-plus, which Mr. Friedman used in this Plaintiff's Exhibit 1A, instead of using 25-plus, had he used, say, age 20-plus, would there be any difference?

MR. DEVORKIN: I object. There is no foundation for that answer.

THE COURT: You can question this man and find out why he reaches the conclusion.

MR. DEVORKIN: All right.

THE WITNESS: Should I answer that specifically or --

MR. DEVORKIN: This sort of comes out of the blue.

THE COURT: We have a situation where --

MR. DEVORKIN: I understand, your Honor.

THE COURT: -- 25-plus is not realistic in terms of membership in the union. We are trying to reach a realistic figure. This man is an actuary. If he can possibly give us a realistic figure, let's get it. If he can't, you can cross examine him and we will throw his evidence out.

MR. DEVORKIN: Okay. Thank you.

BY MR. CORCORAN:

Q My question was, Mr. Carlson, if instead of using the age 25-plus, the age of 18 was used, would that make for any difference in the percentage?

A Well, I have reached the conclusion by general reasoning, which I think should be acceptable, that the higher ages of people we have lesser education, or vice versa, the younger ages we tend to have more education.

Therefore, I would say that by taking a higher age group you tend to understate.

Q Now, referring on page 5 to column 4, the

figure --

A The point I would like to make -- excuse me -- is that the result of this would be that the percentage column -- I think it is 6 -- where it reads --

Q No. On page 5, the percentage column for Bronx County is listed as 85 per cent.

Would that be greater lr less if the age was, say, 18 instead of 25-plus?

A In my opinion the percentage would be less.

Q And in the next column would that number of 285,190 for Bronx County be greater or less?

A Yes, it would be less.

Q If I were to go down through all the counties listed on this page 5, including Kings, New York, Queens and Richmond, would your answer be the same?

A Yes.

Q Now, is there a relationship, Mr. Carlson, to page 6?

A Well, the same point or observations would be made on all the tables, because they are similarly constructed. One is total population, the other is black and the other is Hispanic, I believe.

Q Now, let's take page 6, where you have, in Bronx County, a grouping of black males 25 or older with high school education or less.

What would your answer be, Mr. Carlson, instead of 25-plus, if they used 18? Would that figure, 665,132, be greater or less?

A Well, it's best to go to the final column or to the percentage, because --

Q Then I'll reword my question.

If the age used on page 6 of Plaintiff's Exhibit 1A was the age of 18 and over instead of 25 and over would there be any change in the percentage of black males with high school education or less?

A I think the percentages would be less.

Q And would the figure in the last column be less?

A It would follow, they would be less too.

Q To what extent would they be less, if you can tell us?

A I have no way of telling that.

Q Would your answer be, if I were to ask you the same questions referrable to Counties of Kings, New York, Queens and Richmond -- would they be the same?

A With the same basic reasoning, yes, they

would all be less.

Q Now, you will note that in this exhibit the government has limited its survey to the five counties constituting the City of New York.

It is my understanding that there has been proof offered in this case that Local 15 and its branches include not only the five counties of New York but the Counties of Nassau and Suffolk, Westchester, Dutchess and Putnam, and also Saratoga County, so that instead of five counties, the jurisdiction of this Local Union 15 and its branches embrace 11 counties.

MR. DEVORKIN: Your Honor,is that testimony or is that a question? I am not sure.

THE COURT: I don't know.

MR. CORCORAN: Well, I understand that that has been --

THE COURT: Is that a fact?

MR. DEVORKIN: No. The only proof is that a couple of hundred men out of the 6000 work outside of New York City.

Mr. Corcoran hasn't been here through the whole trial.

MR. CORCORAN: I've been the attorney for the union for almost 35 years and I know the jurisdiction

of our union.

MR. DEVORKIN: If Mr. Corcoran wants to testify, I'll be glad to examine him.

MR. BRADY: If your Honor please, the business representatives called by the government testified as to the jurisdiction of the various locals, and Mr. Gambino and Mr. Delaney and the other business agents testified that the jurisdiction included the Counties of Nassau, Suffolk, Westchester, Dutchess and Putnam. That's in evidence.

MR. DEVORKIN: Obviously the testimony will speak for itself.

THE COURT: I can't understand the testimony, other than indicating that it wasn't more. He can't say how less.

MR. DEVORKIN: Actually, there were two witnesses that did testify about the specific numbers of men working outside of New York City. I believe that was as to 15D and possibly 15C. That is the only testimony about men working outside the city. And on cross examination it was limited to, I think, approximately a hundred to 200 men all told.

MR. CORCORAN: Well, we have --

THE COURT: Let's let him get the an-

swers.

MR. CORCORAN: And I think, Mr. Devorkin, to supplement your remarks, we have up in Saratoga County employees out of Local 15.

THE COURT: I can't take your testimony.

MR. CORCORAN: Could I hear the last question?

(Question read.)

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Q My question now, Mr. Carlson, is, would that make a difference in the percentages to be arrived at upon computation on each county, instead of limiting it to the five counties of the City of New York?

A Yes. The study, if I may make the comment, when a statistical study is done such as this, you have a goal, a design, and this would be those over age 18 and would be covering the territory you are interested in and the type of people you are interested in. But when the study is based on the use of figures of 25 and over and 16 and over, you are swerving from the original purpose of the thing, and if you base it on the five counties which it must be based on, whatever the group is, then by applying this result, you are applying it to a different population than you built it upon.

THE COURT: You come as close as you can. We can't do this on an actuarial basis. We don't have the figures.

THE WITNESS: The only point I make is that --

THE COURT: We know the specified areas.

THE WITNESS: But to the extent there are other counties involved, just general reasoning, it would tend, I would say, to be less than this.

Q Would you then state whether Exhibit 1 as presented by the government as to percentages of black

males in pages 5 and 6 are an overstatement or an understatement or what?

MR. DEVORKIN: I object. He is testifying as to general reasoning.

THE COURT: I will take the statement. He already testified and I am saying that this isn't very helpful to the Court. All it indicates to the Court is that the figure may not be right on the nose but the Court, in the absence of other figures, has got to be guided recognizing the fact that there may be some basis for criticism.

This gentleman says they would be less. The Court would not be inclined to go above the government figures.

MR. DEVORKIN: We wouldn't ask you to.

Q So that your answer remains that this percentage would be less?

A Yes. I don't know how much, but my answer is it would be less.

MR. CORCORAN: There has been offered in evidence earlier in this case Exhibit No. 99, which constitutes certain computations, and my partner, Mr. Brady, has sought a stipulation with counsel which I understand has not yet been completed and I am asking the witness to

look at this computation. I will give a copy to counsel as being the results of figures taken from Exhibit 99, and I will ask the witness to look at them as representing the number of minorities that have been initiated into Local 15 and its branches, commencing on January 1, 1964.

If your Honor please, may I present you with a copy, sir?

MR. DEVORKIN: I have no objection to this being offered in evidence.

THE COURT: All right.

MR. DEVORKIN: With the caveat that this was arrived at from examining Plaintiff's Exhibit 99 in evidence. I will stipulate in fact to this.

THE COURT: All right.

Q Looking at the set of figures commencing on January 1, 1964, up to date, will you tell us, please, how that compares with the increase, say, in population, which was the basis for the government's standards on the census?

MR. DEVORKIN: That I object to.

THE COURT: Increase in population? How did that come into the government's case?

Q Excuse me, Mr. Witness. Would you comment on this document that you are looking at here?

MR. DEVORKIN: I object to that as to form.

THE COURT: I just don't understand this.

Q Starting from this 1964 to date, what would you say is the increase in initiation over that period?

MR. DEVORKIN: Objection.

THE COURT: I am familiar with the figures. I don't need an actuary to tell me what this is.

MR. CORCORAN: I want him to tell the Court, if I may, how does this compare with any other increase, say, in minorities, population or any other group? How does this compare over the same period of years?

THE COURT: Why don't you give me the figures showing any increase and I will compare it. I think somebody in the sixth grade could make the comparison.

MR. CORCORAN: Might the witness be permitted to answer that?

THE COURT: I think he would be insulted by the question. What is he going to base it on? He doesn't have another set of figures here to make this comparison.

MR. CORCORAN: May I ask the witness to answer and see if it is satisfactory to your Honor?

MR. DEVORKIN: I object.

THE COURT: What is he comparing it with? He can take anything he wants, the price of an automobile

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ten years ago, the rainfall in 1950.

MR. CORCORAN: He can compare it with the percentage or number of minorities for that same period of time within this jurisdiction, has the increase in minorities been as great as the number initiated into this union.

THE COURT: Has he some figure on that?

MR. CORCORAN: I will ask him.

THE COURT: Do you have any figure year by year showing this?

THE WITNESS: No, I don't. I just look at this.

THE COURT: Where are we?

Q Mr. Carlson, what is the base multiple from 1964? Does that amount to five times?

MR. CORCORAN: I object.

THE COURT: Sustained.

MR. CORCORAN: Will the Court take judicial notice of the fact that minority population in the City of New York has not increased five times in the period of time embraced in this report?

THE COURT: I am sure that we got the figures available.

MR. CORCORAN: I think that is a crucial equation.

THE COURT: Why don't you get the figures some time?

MR. CORCORAN: For the record would the witness be permitted to make that comparison?

THE COURT: If he knows. If you got some document in evidence to base it on.

I don't think I need a witness, I will allow you to introduce it -- he wouldn't know. You would have to take the census years and you don't have 1960 here, you have 1970.

I am not familiar enough with all of the figures that are available, but I don't understand other than the census figures where the figures are going to come from.

MR. CORCORAN: Will counsel stipulate that the minority population in the City of New York during the period embraced by these years has not increased in the same proportion as the amount of initiations into Local 15?

MR. DEVORKIN: No.

THE COURT: I don't think we are going to judge this case by the rate of increase.

MR. CORCORAN: If your Honor please, it shows the trend, it shows the trend of improvement in the initiation of minorities into this local union so as to negative any pattern of violation of the Act, and that is the

object of this particular phase of my questioning. It shows continuous improvement and increase.

THE COURT: Put the figures in to support it. I don't have to have the population figures.

MR. CORCORAN: The figures, your Honor, of initiation that are taken from the document, Exhibit 99.

MR. DEVORKIN: I will stipulate to those figures. I said that already.

MR. CORCORAN: It shows an increase continuously, an improved increase.

THE COURT: In membership of the union.

MR. CORCORAN: Of minorities, yes.

THE COURT: It doesn't have anything to do with population.

MR.CORCORAN: I was trying, if I may, your Honor, to show that the minority population has increased, say, from 1964 to date almost five times, which that was something like eight, and we are now at 415, and that is almost five times in that period of time, in that ten-year period, and the minority population has not increased, so that Local Union 15 has bettered the increase in minority population by initiation of its minority groups and that is the point I am making.

THE COURT: Submit the figures for the City of

New York and the Counties of New York, what the increased minority population is.

MR. CORCORAN: I will try and get it. I have no further questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Mr. Witness, have you ever seen Plaintiff's Exhibit 1 in evidence?

A I glanced at it. I didn't have time to study it.

MR. DEVORKIN: I have no further questions.

(Witness excused.)

MR. BRADY: Mr. Scott, please.

W A L T E R W. S C O T T, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Scott, for the record, what is your race, please?

A My --

Q Race?

A Oh. Black, Jamaican.

Q Are you a member of Local 15?

A Yes, I am.

Q And what local?

A 15.

Q Do you recall the date of your admission to the union?

A Yes. My date I don't know, but I know it was in the month of June, 1972.

Q And do you recall your first contact with the union, sir?

A Yes. It was June of 1972.

Q And did you go to the union?

A Yes, I did.

Q And who did you speak to?

A Mr. Murphy, Jr. -- Sr.

Q And at that time did you have any experience?

A Yes, I had.

Q What was your experience?

A Well, I run scrapers, dozers, loaders -- front-end loaders.

Q How many years' experience did you have at that time?

A Oh, I would say about 10 years; eight, 10 years.

Q Where had you gotten that experience?

A Jamiaca, West Indies.

Q What did Mr. Murphy tell you at that time? Do you recall?

A Well, he told me that, you know, it was fairly busy and to come back in another couple of weeks, which I did.

Q Which you did?

A Yes.

Q At that time what happened?

A I went back to him and told him I was Scott and he told me to come back, and he said to one of the delegates to have my name put on the list, to see what

I could run, which they did.

Q Did there come a time when you were sent out to a job?

A Yes, the same day I got a job.

Q The same day?

A Yes, the same day, yes. I got a job.

Q What kind of work were you sent to?

A This was a wellpoint, which lasted four days.

Q Did you goback to the hall then?

A Yes, I did.

Q And were you sent to another job?

A Yes. Sent out to other jobs; operating, of course.

Q What did you do?

A Operating.

Q What equipment did you operate?

A Loaders, front-end loaders.

Q At that time, Mr. Scott, were you able to run a backhoe?

A No, I couldn't.

Q Did there come a time when you were sent to another job for Amoruso?

A Yes, I did.

Q And what equipment were you running there?

A I was running a loader for him, front end, at the time.

Q Did you have a conversation with Mr. Amoruso about running some other equipment?

A Yes. Well, he wanted to keep me to work for him, and I told him I couldn't run a backhoe so he contacted the union and they called me and told me I have to go to the school because I have to be able to run this equipment.

Q Would you have been able to stay on with Amoruso if you were able to run a backhoe?

A Yes.

Q Did there come a time when you went to school?

A Yes, I went to the school.

Q And was that to get experience on a back-hoe?

A Yes.

Q And how long did you stay in the school; do you recall?

A Four months. I would say four months -- from August to October; three and a half to four months.

Q When was that?

A This was in 1972. I would say I guess in

about July, 1972, and I was out of there in November of 1972.

Q Since that time, Mr. Scott, have you been fairly steadily employed?

A Well, yes.

Q Did you lose much time during the years?

A No. One day here, one day once in a while, might lose a day.

Q Since that first wellpoint job have you been sent to any other wellpoint jobs?

A No.

Q Were you unhappy to be sent to that wellpoint job?

A No, I was glad. My first job, I was glad to get it because that's what it was really.

Q What job are you on now, Mr. Scott?

A I am working for Marine Hall on the Governors Island. Truly, here I learned the job I am doing now from the union, you know. I am doing a fireman jobs now which I learned while I was, you know, active in the union, running the machines.

Q How did you learn how to be a fireman?

A Well, I was working a job, and this machine was like two jobs over, so in the spare time I would run

over,you know, in the morning, and during the course of the day, you know, to pick it up.

Q Is that how you learned how to fire?

A Yes.

Q Then you were sent to your present job as a fireman?

A Yes, because then I was working for a company and they asked me if I could fire and I told him yes,which is part of the company, and then --

Q In other words, you were working at a company in some other --

A I was working for Underpinning at the time on the job, and this machine was, you know, like two jobs, two streets, over. So I say I was going to learn it and break in.

Q Did you have to get anyone's permission to do thawt?

A Oh, well, no. If you are in the field and you are entrusted, any member will always show you around once you are entrusted; any member.

Q Now, the person that was on the steam rig, was that a white or a black?

A Oh, he was black, yes.

Q And how did you obtain your present job as

a fireman?

A From the union hall.

Q How long has that job lasted?

A Well, I am going on it for eight months now, still going.

Q If you don't mind, approximately how much money did you make last year?

A Oh, 31,000.

MR. BRADY: No further questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Scott, when did you get your union book?

A November of 1972.

Q When did you first go down to the union hall?

A It was June of 1972.

Q How many jobs have you had between June and November?

A Pardon me?

Q How many jobs did you have between June and November?

A Oh, I would say roughly maybe three; could be four.

Q What's the longest job you had in that first half a year?

A With Columbia Asphalt.

Q How long was that job?

A About three months.

Q What were you doing on that job?

A Running a scraper, 631 scraper.

Q You had run a scraper before that?

A Oh, yes.

Q Did you get your book on that job?

A Yes. Ahead of that job I got my book, right. That job, just about the end, the same week that the job finished I had my book. I got my book.

Q When the job finished?

A No. I was on the job. Just about a week before it finished I got the book.

Q In other words, you had been on the job just a little bit less than three months when you got the book, is that it?

A Could have been. Three months, a little less than three months, maybe.

Q This job with Amoruso, I believe you said, what equipment were you operating on that job?

A Front-end loaders, 977.

Q I believe you said if you could have operated a backhoe you could have stayed on that job?

A Yes. He wanted -- this contractor wanted to keep me, but I told him right off the top I couldn't run a backhoe, you know, and he's got a lot of them.

Q Have you been on any other jobs where you could have shifted from one piece of equipment to another?

A If I had another job?

Q Any other jobs you have been on where you shifted from one piece of equipment to another when the one piece was laid off and you went to another piece of equipment?

A I don't think I had a reason to, no. There was no hope and reason for that.

Q Do you know if other people , if their equipment is laid off, if they ever shift to another piece of equipment on the job?

A You mean the job that I am on?

Q As long as you have worked under Local 15's justisdiction, have you ever seen operators who have been on one piece of equipment, and when that piece of equipment got laid off, the person then shifted to another piece of equipment on the same job; have you seen that

happen?

A I'll say yes, a couple of times, sure, that happens.

Q Have you seen that happen to white guys or black guys?

A Black and white.

Q What kind of work are you presently doing?

A Now?

Q Yes.

A I am a fireman at Governors Island.

Q You said you only had one wellpoint job at the beginning, is that correct?

A Yes.

Q Would you like to be sent back to a wellpoint job now?

A Well, if I have to go, I'll have to go digging the dirt.

Q Do you prefer your present job?

A Oh, yes, it's all right.

Q Why would you prefer your present job?

A Why would I prefer it?

Q Prefer it.

A You asked me if I would be happy to go back to a wellpoint job. If I go to the union hall -- see,

I am finished where I am working now and I go to the union hall now and they have a wellpoint job for me, sure I'm going to do it.

Q Do you personally like any one kind of work better than the other?

A Well, let --

Q If you had a choice, do you like any better than the other?

A I wouldn't say yes. I would say whatever job I am sent to, whatever work the union has, that's what they have to give me, I suppose.

MR. GLASSMAN: I have no further questions of the witness.

THE COURT: Any questions?

MR. BRADY: No further questions.

THE COURT: You are excused.

D A L E F O R D, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Ford, for the record, what is your race?

A Black.

Q How old are you, Mr. Ford?

A Thirty-one.

Q And are you a member of Local 15?

A Yes, I am.

Q How long have you been a member?

A Approximately about two years, seven months.

Q Tell us, please, what your first contact with the union was.

A Well, I had a brother that was in construction in Pittsburgh, Pennsylvania. He had came up, got information of how to get in contact with the union. Since he was staying at my house and didn't know his way around New York I took him down to the hall and he talked --

Q Excuse me. At that time what type of work were you doing?

A I was working with a vending company.

Q Is that vending machines?

A Right, yes,sir.

Q What were you doing? What actual job were you doing?

A Well, I was putting sandwiches, cigarettes, candy in different types of machines, like that.

Q How long had you been doing that; do you recall?

A Oh, almost four years.

Q And you went down with your brother to the hall?

A Right. To show him where the location of the hall was.

Q What happened there?

A He had talked to Dan Murphy and Dan told him he had to sign up on the list, and Danny had asked him what about me, since he was staying at my house. So I told him, "Yes, put my name on the list too."

And meanwhile Danny had called and my brother had changed his mind and gone back to Pittsburgh, so I went on out to school and started the school.

Q That was the list for the school?

A Yes, sir.

Q You had no prior experience?

A No contact at all with the union.

Q How long were you in the school?

A Approximately seven months.

Q What was the date when you graduated?

A 4/13/72.

Q Was that the first graduating class, do you know?

A Yes, it was. I was one of five.

Q While you were going to school were you able

to get any referrals, work referrals, or did you keep --

A No. I continued working at my vending job. I never went down to the dayroom or inquire about any of them.

Q When you graduated did you get your book?

A Yes, I did.

Q Then did you start shaping the hall?

A Yes, sir, I did.

Q And were you referred out?

A Yes, sir.

Q Were you referred out on a fairly regular basis then?

A Yes. My first job was a wellpoint job.

Q How long did that last?

A About nine days, roughly.

Q And were you unhappy to get that job?

A No. I was very glad. I was very glad to even get in the union.

Q Was there a difference in pay between the wellpoint pay and the job with the vending machines?

A No; I was getting top rate.

Q What had you been getting where you were working with the vending company.

A 3.54 an hour.

Q What did you get with the wellpoints?

A 8.80 an hour.

Q Since your admission to membership and since you have been going to the school, have you experienced any discrimination because of your race?

A None at all.

Q From your observation, are blacks referred out on an equal basis with whites?

A Yes, sir, very much so. Sometimes when I am down in the hall shaping up more blacks go out than white on occasions.

Q Have you had any other wellpoint jobs since that first one?

A No, I haven't.

Q How many blacks graduated in the first graduating class?

A There were four blacks and one white.

Q Do you have now any relatives in the union?

A None at all.

Q Did you have any at that time when you entered the union?

A No, sir.

Q Did you have any contact with the union?

A No, sir. I am in New York by myself. The

rest of my family is back in Pittsburgh, Pennsylvania.

Q Approximately how much did you make in 1973?

A Nine months of -- '73? That was 22.

Q And what was that nine months you --

A Nine months in '72 I made 17,000, close to $18,000.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q How long have you had your present job?

A The present job that I am working right now? Three weeks.

Q Before that what job did you have?

A I worked with DeMina down in Brooklyn on a sewage system for over a year and a half.

Q From about the beginning of '73 that would be, right?

A Yes, sir.

Q How many times have you actually been in the hall to get work?

A Roughly around four to five times.

Q You mentioned that one time more blacks appeared to go out from the hall than whites?

A Yes,sir.

Q Do you remember when that was?

A That was in '73.

Q Was work slow in A73 or not?

A Yes, it was at the time.

Q Do you know what kind of work those black men were sent to?

A Operating jobs, three-fourths of them.

Q How do you know that?

A Because I knew three-fourths of them that went out.

Q Each of them told you where they were going?

A Yes, sir.

Q Were you in the hall at the time?

A Yes, sir.

Q When did you get sent out?

A I got sent out that same day, the same morning, around about 10:30.

Q Sort of at the end of the morning?

A Yes.

Q Anybody else left in the hall when you got sent out?

A Sir?

Q Was anyone else left in the hall when you got

sent out?

A The hallwas crowded.

Q A lot of people were left when you got sent out?

A Right.

MR. DEVORKIN: No further questions.

THE COURT: You are excused. Thank you.

(Witness excused.)

S E L W Y N S C A R B O R O U G H, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR.BRADY:

Q Mr. Scarborough, for the record, what is your race?

A Black.

Q And are you a member of Local 15, sir?

A Yes, I am.

Q How long have you been a member?

A About two years and a half.

Q What type of work do you do, Mr. Scarborough?

A I am a welder.

Q Are you a certified welder?

A Yes, I am.

Q Was it in about 1972 when you became a member?

A 4/20/72.

Q April of '72?

A Yes.

Q Prior to that time,sir, did you have experience in the construction trade?

A Yes,I did.

Q How much experience did you have?

A Well, as a welder, for 23 years I've been a welder.

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Q Where did you first get your experience?

A In Trinidad.

Q Did you ever work in New York?

A Yes, I did.

Q Where was that work?

A I worked in the World Trade Center.

Q Was that a union job?

A Yes.

Q In 15's jurisdiction?

A No.

Q What was your first contact with Local 15?

A November of 1971.

Q Who did you speak to?

A Mr. McGuire, Sr.

Q Were you sent out to a job?

A Yes, I was.

Q How long were you in the hall before you were sent out?

A I guess about a week.

Q Do you recall what job you were sent to?

A Perini, 108th Street, a tunnel.

Q How long did that job last?

A Well, I was there about seven weeks.

Q And then what happened?

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A They shut the job down because the bridge at 96th Street ,there was some defect, the bridge was caving and they shut the job down.

Q Did you go back to the hall?

A Yes.

Q Were you sent out again?

A Yes.

Q How long did you have to wait in the hall before you were sent out?

A I would say about [illegible] weeks.

Q Do you recall what job you were sent to?

A Yes. I was sent to Welfare Island, East River, subway.

Q Do you recall how long that job lasted?

A Yes, it lasted about maybe seven or eight months.

Q Seven or eight months?

A Yes.

Q Was it during this period of time that you obtained union membership?

A Yes, it was.

Q How did you go about getting your book, do you recall?

A I wrote a letter to Mr. McGuire, Sr. stating

my background and I was called at Welfare Island by Mr. John Murphy, Sr. to come down to the hall such and such a time with the initial initiation fee and that was the end of that.

Q Was that right after you wrote the letter that he called you?

A About a week after, something like that.

Q Since that time, sir, have you been working fairly steadily out of the union?

A Yes, I have.

Q Now, what job are you working on at the present time?

A Perini, North River Associates.

Q How long have you been there?

A I am going on two years now.

Q In the times that you have used the union for reference to work, have you observed any discrimination against blacks?

A Not to my knowledge.

Q At the time you first went down to the hall did you know anyone in the union at that time?

A No, not really, no.

Q Was there any reason why you went to the engineers, since you were working in construction?

A Yes, I liked the engineers, they tended to work more steadily than the other jobs within the confines of New York City.

Q Approximately how much money did you make last year?

A $27,000.

MR. BRADY: I have no further questions of this witness.

MR. KENNEDY: I have no questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Scarborough, you are a certified welder?

A Yes, I am.

Q When did you receive your certification?

A About four years ago.

Q About two years before you joined the union?

A Yes, sir.

Q Do you do all kinds of welding?

A All phases of welding.

Q Have all jobs you had for Local 15 been welding jobs?

A Yes.

Q You said you worked for other unions in the City of New York as a welder, is that correct?

A What is that?

Q I believe you stated you worked for other unions in the City of New York?

A Yes, I did.

Q As a welder as well?

A Yes.

Q What other unions?

A Local 5, boilermakers; Local 40, ironworkers.

Q Do you use the same techniques for welding for any union?

A Basically it is the same, depending on what you are welding.

Q What kind of pay did you receive from Local 40?

A It was $8 and change an hour then.

Q When you first came in to Local 15, your first job there, do you know what your pay was, about?

A $9 and change.

Q In your opinion is there a need for certified welders here in the City of New York?

A Rephrase that.

Q Do you feel there is a need for certified welders in the City of New York?

A Yes, I think so.

Q Do you have many friends who are certified welders?

A I have a lot of friends certified welders, yes, sir.

Q Are they all working?

A As far as I know, most of them are.

Q That Welfare Island job you were on, who sent you on that job?

A Mr. John Murphy.

Q How long were you on that job before you wrote that letter to Mr. Murphy?

A I think about a month.

Q What made you write the letter?

A I wanted membership in the union.

Q Anyone tell you to write a letter?

A No.

Q Anyone tell you any other way of getting membership?

A No.

Q How long were you on the Perini job, the one you had before the Welfare Island job?

A A couple of weeks -- maybe seven or eight weeks. I can't recall exactly.

Q You didn't get your book there?

A No.

Q Anyone on the job ever tell you how to get a book?

A No.

MR. GLASSMAN: I have no further questions, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Mr. Chambers, please.

H E C T O R C H A M B E R S, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Chambers, for the record what is your race?

A Black.

Q Are you a member of any local union?

A Local 15.

Q How long have you been a member of Local 15?

A 4/13/72.

Q Prior to your admission in the union did you have any experience in the line?

A Yes.

Q What was your experience?

A I could run a dozer and a loader and also went to school in Jersey.

Q What was the school you went to in Jersey, do

you recall?

A International School of something, it is advertised on television.

Q Is it Interstate?

A Yes, Interstate.

Q What was your experience in that school?

A Well, I spent three weeks there and I didn't do much better than I went there. It was too quick.

Q Did you learn anything there at all?

A Nothing much.

Q Did there come a time when you contacted someone in Local 15?

A Yes.

Q By the way, had you gotten your experience outside of the United States?

A Yes.

Q Where was that?

A Jamaica.

Q In Jamaica did you work at any other occupation?

A Yes.

Q What is that?

A Policeman.

Q How long were you a policeman?

A Ten years.

Q Was that ten years right before you came to the United States?

A Yes, it was.

Q Did you feel that you needed schooling?

A Very much so.

Q What was your first contact with Local 15?

A I phoned my friend after I went to school in Jersey, Danvers.

Q Danvers?

A Yes.

Q Was he a member of Local 15?

A Yes, sir, he is.

I went to the union and I spoke with John Murphy.

Q Did Mr. Danvers recommend that you come to the union?

A Yes.

Q When was that about, approximately?

A That was about 1970, some time in 1970.

Q Did you sign a list for referral then?

A Yes, I went to the union hall at 14th Street and I spoke with John and put my name down and he said I should start shaping the hall, which I did.

Q You were shaping the hall?

A Yes.

Q Did you get some work?

A Yes, I did.

Q Mr. Chambers, did you also attend the school at Local 15?

A Yes, I did.

Q How soon after you started shaping the hall did you attend the school?

A About a week after the school started. I told them that I can run certain machines but I knew I needed more experience on other machines.

Q Did you also need some brushing up on the ones you could operate?

A Right. And about a week after the school started Dan Murphy called me and I went to the school.

At that time I was steadily employed here and there. I never lost any time.

Q Never lost any time?

A Maybe a day or so.

Q How long were you in the school?

A I stayed there from 19 70 until 1972, when I got my book.

Q During all the time you were being referred out of the union?

A Yes, I was working with the union and I was

employed.

Q Did you ever get a well point job?

A Yes.

Q What do you think about well point jobs?

A Nothing is wrong with it. I love it.

Q You like well points?

A Sure.

Q What is your present job, Mr. Chambers?

A I am now operating a Dynahoe 160.

Q What kind of equipment is that?

A A backhoe.

Q Had you had any experience on the backhoe before you went to the school?

A No. I got that at the school.

Q How long have you been on your present job?

A Just about four weeks.

Q During your time in school and the union and using the union as referral for employment, have you experienced any discrimination because of your race?

A No, sir.

Q Approximately how much did you make in 1972?

A Over $25,000.

Q While you were in school?

A Yes.

Q How much did you make in 1973?

A Over the same amount, over that.

MR. BRADY: I have no further questions.

MR. KENNEDY: I have no questions, your Honor.

Q Did you operate any equipment in Jamaica?

A Yes, I did.

Q What kind of equipment was that?

A Bulldozers, loaders, pan.

Q How many hears did you do that in Jamaica?

A Maybe about three years.

Q And the first time you went down to the union was 1970?

A Yes.

Q Do you remember which month in 1970?

A No, I don't remember.

Q Was it the summertime or springtime?

A I don't clearly remember when I went there. I went there after I went to Jersey, and of course I went to the union hall. I don't remember what month I went there.

Q And your friend, Mr. Danvers, told you to go down?

A Yes.

Q What's Mr. Danvers' first name?

A Fitzroy.

Q When was it that you first got into this school, how long after the time you went down to the union?

A A couple of weeks after the school started. As soon as I started I got in there the second week after it started.

Q And you stayed there until April of '72?

A Yes.

Q When you got your book?

A Yes.

Q Did you work pretty steadily between 1970 and '72?

A I was always working.

Q As an engineer?

A Yes.

Q What kind of jobs?

A Jobs operating machines, maintenance, point jobs, and I went to the tunnel and such the like.

Q Did you operate?

A Yes.

Q What kind of equipment?

A Loaders, bulldozers, pan, backhoes.

Q For the entire two-year period?

A Yes, I did.

Q Did the union give you all those jobs?

A The union give me, yes, I worked by the union.

Q Then you got your book in April of '72?

A Yes.

MR. DEVORKIN: Nothing further, your Honor.

MR. BRADY: Nothing further.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: Your Honor, the rest of the rest of the witnesses are the same nature, they are cumulative, and I do have two witnesses tomorrow.

THE COURT: All right.

Ten o'clock tomorrow morning.

I am prepared to sit for a while if you want, but I think everybody wants to get home.

MR. DEVORKIN: I'll stay if your Honor wants to. Whatever you want to do.

THE COURT: We will adjourn until tomorrow morning.

If we can get through the two witnesses tomorrow --

MR. BRADY: That will be the case.

THE COURT: -- if you want to have any more of these gentlemen, we can put them on tomorrow, if we have the time, but I will have to stop at lunchtime

because I have a firm commitment in the afternoon.

MR. BRADY: All right.

MR. DEVORKIN: Your Honor, could I make a request?

THE COURT: Yes.

MR. DEVORKIN: Do you know how long the witnesses are going to take? I was going to request that we start at 10:30, if Mr. Brady is sure we will be done by lunch.

Can we start at 10:30 then?

THE COURT: Sure. 10:30.

(Adjourned to October 11, 1974, at 10:30 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Claudius Johnson	3471	3477	3505	3506
Albert Gonzalez	3506	3511	3525	3527
Robert Buchanan	3529			
Earlie Johnson	3533	3540	3564	
Phillip Ferrantello	3565	3573	3588	
James Dooley	3590	3598	3621	
Israel Galarza	3621	3626	3632	
John Lanning	3633	3634		
George Carlson	3637			
Walter W. Scott	3654	3660		
Dale Ford	3663	3668		
Selwyn Scarborough	3670	3675		
Hector Chambers	3678	3683		

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,
vs.
LOCAL 14 INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants.
72 Civ. 2498

New York, October 11, 1974;
10.30 A.M.

Trial resumed.

MR. BRADY: Mr. Roffle.

D O N A L D R O F F L E, called as a witness on behalf of the defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Roffle, by whom are you employed?

A Recruitment & Training Program.

Q In what capacity?

A I am Director of Field Operations.

Q Can you tell the Court, please, and describe the functions and purposes of the Recruitment & Training Program?

A We have concerned ourselves with facilitating the entry of minority workers into the construction industry.

For the past ten years we have had field opera-

tions in 28 cities around the country. We originally started here in New York City in 1964 and have been about the task of placing people into construction trade unions.

Q In fact, you are one of the more successful organizations in that regard, are you not?

A I would like to think we are and the government does, yes.

Q You are opening new offices throughout the country?

A Yes.

Q Every year?

A That is correct. We have expanded since 1967.

THE COURT: Do you have any affiliation with any government agency?

THE WITNESS: We are funded under a grant by the Department of Labor.

Q Is that your only affiliation with any agency or industry?

A Yes.

Q When was it that you began working with Recruitment & Training?

A 1967.

Q What was your job at that time?

A I was project director of the office that we

had, that opened in Harlem.

Q Did there come a time when you became aware of an agreement with Local 15, Operating Engineers?

A I was involved in the making of an agreement with Local 15.

The situation was that a young man came to our office, a Job Corps graduate in Waco, Texas, and inquired about a job in the Operating Engineers and I at the time contacted the office of Federal Contract Compliance and asked about the man becoming employed on a job where there were Federal funds involved.

He arranged for a meeting with Local 15, at that time a gentleman, Mr. Don Rogers, was working at the local and an agreement was reached that where we identified minority workers with experience as operators, we could refer them to the union if they could demonstrate their ability and proficiency and they would become journeymen and mechanics. If not, they would be given an opportunity to train themselves.

Later on this agreement was perfected with Mr. Tommy McGuire to allow those who couldn't pass the qualifying examination to enter into a training school established out at Kennedy Airport.

Q Do you have this type of agreement with any

other construction trade union in New York City?

A No.

Q Did you take part in the attempts to recruit journeymen engineers for Local 15?

A When I worked as project director in the Harlem office from 1967 to 1969, yes.

Q Tell me, where did you attempt to recruit these people?

A We recruited throughout the minority communities around New York City, wherever we could find people to listen to us for more than five minutes, we encouraged them to apply for a job in the construction industry, pool halls, street corners, churches, welfare department, whereever we could find them.

Q At first did you find a large number of men who wished to become members of Local 15?

A Not large numbers. Most of the people that we recruited had an interest or had prior working experience in some of the other crafts, primarily carpentry, plumbers, electricians.

Most of the operating engineers came from one of two sources, either out of Job Corps training centers or they had migrated here from the West Indies and Caribbean Islands.

Q Tell me, did this recruitment by recruitment and training continue after you changed jobs? Did someone else take your job and continue?

A Yes, of course.

Q It is on-going?

A Yes, that is our business.

Q It continues to date, sir?

A Yes.

Q Has Local 15, in your opinion, lived up to its commitment in this agreement with Recruitment & Training?

A They have lived up to the terms of the agreement, I would say, yes.

Q And this recruitment, I take it, goes on on a day-to-day basis, daily?

A Yes.

Q Is there any other contact you have with Local 15, Mr. Roffle?

A By "contact" what do you mean?

Q Well, do you sometimes receive complaints from people that you have referred?

A Oh, yes. Not everyone is happy with what happens to them in terms of them acquiring jobs that we have sent to Local 15 and we do get complaints, and when we get those complaints I contact Local 15, usually Tommy Maguire or Dan Murphy, and attempt to resolve the matter in the first phone conversation.

If it's of a serious enough nature, we have had meetings at the office of Local 15. I've gone down with applicants, tried to intercede in their behalf.

Q What kind of cooperationdo you get from the local union.

A In every instance they have attempted to try to resolve the matter to the satisfaction of the person that was making the complaint. In all cases the person wasn't always satisfied. In most cases I would say that they were.

Q Would you say that you have the same people, generally speaking, that bring complaints to you time after time?

A Generally speaking, yes.

Q And approximately how many complaints of this nature do you get a year, let's say?

A Well, maybe seven or eight complaints a year but of the seven or eight, you know three or four or five -- four or five of the seven or eight are usually of the same people.

Q And Local 15, as you said, investigates the complaints and cooperates with you?

A When I bring the complaint to their attention, there is some discussion about it, they look into the matter. If it requires that there be further discussion about it, if it requires that a meeting be held with the applicant involved, then that is done.

The severity of the complaint and the complexity of the issue determines how far we go with Local 15. In some cases it is resolved in a telephone conversation.

Q Do you sometimes find that the complaints have their basis in a misunderstanding of the facts involved?

A Yes, a misunderstanding of the industry, the way the industry operates; in a number of cases that has been the case.

Q Have there been occasions where a man has claimed proficiency at operating where you have gone -- the union has invited you to go to the school and see him operate?

A Yes.

Q And have there been occasions when in fact you were satisfied the man could not operate as well as he thought he could?

A Yes.

MR. BRADY: I have no further questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Does RTP provide any type of classroom instruction to people who say they want to be operating engineers?

A No.

Q If you had a person, for instance, that came to you and said he wanted to be a crane operator, would you give him any kind of instruction to pass the city license examination?

A We have on occasion informed applicants

what the nature of the examination is and suggested that they acquire certain materials that would enable them to pass the exam.

We have never conducted formal tutorial classes for preparation for Local 14.

Q And approximately how many people per year, on an average, would you refer to Local 15?

THE COURT: 15?

MR. KENNEDY: Yes.

A Maybe 15 or 20 people.

Q Fifteen or 20 people?

A Yes.

Q And the complaints average maybe seven or eight a year?

A Yes.

Q From perhaps four or five of those people?

A Being the same people, yes.

MR. KENNEDY: No further questions.

CROSS EXAMINATION

BY MR. GLASSMAN:

Q Mr. Roffle, can you describe for us the nature of your original agreement with Local 15?

A Actually there were two agreements. The second -- there was a perfection upon the first agree-

ment.

The first agreement, reached in 1967, as I mentioned earlier, was one in which Don Rogers, who was then at Local 15, participated, and that agreement said to the effect that where we were able to identify minority operating engineers with experience, that we could refer them to jobs and if the contractor was satisfied with their work performance, after a seven-week period the local would admit him into membership.

Q After how many weeks?

A Seven weeks.

Q Who actually found the job under that agreement?

A We did in most instances. In a couple of instances the Office of Federal Contract Compliance would call up and say there was a contractor who was out of compliance and ask could we supply them with a qualified minority operator, and we would refer the person to the job.

I would inform Don Rogers that the guy was being sent to the job, who the contractor was, and if it worked out to our hopes and satisfaction the guy usually was taken into the local.

Q Is it correct to say then that you found the

job and then you went to the union and said that you had a job for an individual and would they take him on?

A Right. At that time that was the working agreement.

Q And was that agreement firmed up between yourselves, RTP, and Don Rogers?

A Yes. That was or the period of '67 to '69.

Q And at the time was Don Rogers an officer of Local 15, if you know?

A Yes.

Q Who was the first individual that you obtained a job for through this program?

A A young man named Earl Wallace, who had come out of, as I mengioned earlier, a Job Corps center in Waco, Texas.

Q Do you know what kind of a job he got?

A Yes. He was taken in as an oiler. He was employed at the World Trade Center at the time they were doing the foundation work and he was working for Slattery Construction Company.

Q Do you know if he was given any credit for his Job Corps experience?

A No, he wasn't given credit for the Job Corps experience because he couldn't demonstrate any proficiency on the equipment, despite the fact that he had been trained.

Q Which Job Corps center was this?

A Waco, Texas.

Q This is not the union --

A No. This was the Job Corps program funded by the Department of Labor.

Q You worked through a federal contract compliance officer? Who did you work through at that time?

A A gentleman by the name of Murray Geller.

Q What would his role be in that process of referring men?

A Well, his responsibility was to monitor federally financed construction projects to determine if contractors were living up to their contractual obligation to the federal agency for whom they were working, and if he determined that a contractor was not in compliance he would call our office and ask us if we had people in various skill categories to refer.

Q Do you still continue to work with federal contract compliance officers today on that basis?

A Yes.

Q Could you describe for us procedurally what would happen when a man came into your office until the time he was referred to a job under the original agreement?

A We would attempt to find temporary employment for the person until such time that we could secure him the job in the industry.

Q What kind of temporary employment would you find?

A Reall, whatever was available. Jobs, menial jobs, really.

Q Sometimes at lower pay?

A Considerably.

Q You said there was a subsequent agreement?

A Yes.

Q When was that?

A In 1970 or '71, and I must admit I don't recall the exact date. It was '70 or '71 when we began to get some complaints from some of the men about not being able to get work in Local 15.

A meeting was convened between myself, Mr. Maguire, Sr., Mr. Maguire, Jr., and at that time we agreed upon a procedure that went as follows:

That if we identified a minority operator who professed to have experience as an operator, we could refer him to the local. The local in turn would have him to take a performance examination that required that he demonstrate proficiency on five pieces of equipment. If he passed the examination he could then be referred out to work and after a period of time could acquire his book in the local.

If he was unable to pass the examination he then was slotted into the training school that Local 15 was operating out on the Kennedy Airport, and he attended that school and remained in school until such time as he could pass the examination.

Q How many pieces of equipment would he have to pass the examination on?

A Five, as I said.

Q Do you know the types of equipment?

A I'll attempt to try to enumerate them. I might be wrong about this, but as I recall, it was a bulldozer, a front-end loader, a scraper, a cherrypicker and a back-end loader. I think that those were the equipments.

I know that it was a bulldozer, a front-end loader, a backhoe. I am not sure about the other

two pieces.

Q A scraper and the cherrypicker were the others you mentioned?

A Yes.

Q When you started out on your original agreement did you have as many as 15 men who got in at any one time during the year?

A Between '67 and '69, when I was still working in the capacity as project director in the Harlem office, we placed something like 12 to 15 guys a year in Local 15. I recall that in '68 there were nine fellows that went in and the next year we got something like 12.

Q And those were people you placed by finding the job yourself and then going to the union, is that correct?

A Yes.

Q Have any of the men you referred to Local 15 in any way complained to you about the tests that were given to them?

A Yes.

Q What kind of complaints have you received?

A Well, one, that they didn't feel that they had been graded fairly on the exam; two, that -- well,

primarily that they hadn't been graded fairly on the esam.

There had been instances where the determination was made that they hadn't passed the exam and they felt they had passed the exam.

Some complaints were that they weren't given enough time to perform the task assigned to them on the equipment, but mainly it was -- the complaint was -- that they disagreed with the termination made about their test score.

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Q What kind of complaints have you received about the types of jobs people were getting?

A That the jobs that they were being referred to were not of as long duration as the jobs most of the white fellows were being referred to.

That they were referred out, relegated to doing work of a mechanic and oiler and not given an opportunity to work on the equipment as operators.

Q Do you recall the name of any individual, people who complained to you?

A Sure. George McDonald, Keith Wilson, McQuay or McQueen, one of the two, either McQuay or McQueen.

Q Do you know what Mr. Wilson's complaints were to you?

A Well, what I said a moment ago, that he didn't feel that he had been given an opportunity to work on equipment; that he was always being referred out to jobs that were of very short duration and that he had been relegated to doing mechanic's work and oiler's work.

Q Do you know what Mr. McQueen's complaints were to you?

A Yes. It goes back a while. His complaint is that he had been referred to jobs that were of a month, two months or three months' duration at best and he

wanted to be sent on a job here he got a chance to work a longer period of time.

Q Do you know if Mr. John Henlon was ever referred by RTP?

A He may have been referred by RTP but it is not a name with which I am familiar. Since 1969 I haven't worked in the field and the only time that I get involved with Local 15 is when there is a complaint.

The procedure that we have in the office is, in New York City, that when there is a complaint rather than having each of five offices calling Local 15, they refer the complaints to me.

Q How long has that procedure been in effect?

A Since 1970, 1971.

Q Do you remember receiving a complaint regarding a Neville Aikman?

A That name doesn't ring a bell.

Q Mr. Roffle, I show you what has been marked as Plaintiff's Exhibit 102 for identification and ask you if you can identify that?

xx (Plaintiff's Exhibit 102 marked for identification.)

A Yes. This is a gentleman that one of our staff persons, Frank Johnson, had referred to Local 15 and he

alleged that he had been told if he wanted a book in Local 15 he would have to pay a fee of $800, I believe it was.

Q Do you remember discussing that case with Frank Johnson?

A Yes.

Q Is that letter addressed to you?

A Yes.

Q That is on RTP stationery?

A Yes. If I may say, it is dated December 2, 1970. That is quite a long time ago.

MR. GLASSMAN: I offer Plaintiff's Exhibit 102 in evidence, except for the marking in yellow of the name, and that should not be part of the exhibit.

MR. BRADY: I haven't seen it, your Honor.

Your Honor, I am going to raise an objection at this time. There is an attachment to the letter which I don't know if it was in fact sent to Mr. Roffle at the time.

Morever, the attachment is wholly hearsay.

THE COURT: It is not proof of what is set forth but it is received as something that he received and if he didn't receive the attachment --

MR. BRADY: I don't know if he received the second part.

THE COURT: Did you receive the second part?

THE WITNESS: I only looked at the cover letter. Let me see.

Yes.

MR. GLASSMAN: I believe the cover letter referred to the attachment --

MR. BRADY: Would you let him identify it, please?

THE COURT: Both were received. I can accept it for proof of the truth.

MR. GLASSMAN: Just something that was filed with RTP.

xx (Plaintiff's Exhibit 102 for identification received in evidence.)

Q Mr. Roffle, have you ever had anyone complain about the length of time it took them to get a union book?

A Yes.

Q What kind of complaints have those been?

A That they have been shaping the hall a long period of time and they felt they should have received a book.

Q Since your new agreement is it accurate to say that instead of finding a job yourself you refer people to the hall to get jobs?

A Entirely so, yes.

Q Anyone in the union tell you that it is necessary for you to go to the hall to get a job for a man?

A No, we haven't been ordered to do that. It is just it was the procedure that we felt was best to facilitate getting the guy onto the job.

Q Have you had any discussion with any union delegate or officer suggesting that course?

A No.

Q Do you know approximately how many people are in the Local 15 school?

A No, I don't know how many are in the Local 15 school.

I have been told that the capacity that they have for a class is about forty and that they have a back list of people waiting to get into classes.

Q Have all people that you have referred been taken into the school?

A Yes.

Q None of them are on the waiting list?

A Some are on the waiting list, but the question is, you asked if they have been taken into the school when the time came for them, their name on the list when they moved to the top of the list, and has he been brought in. Most of the fellows we have referred were taken into the

school.

Q Do you have any knowledge of how long that waiting list is or had been?

A It isquite extensive.

Q Any idea, approximately, how long it has been?

A It is a sort of difficult question. Two years ago we had a situation developed where I went in behalf of an applicant to speak to Dan Murphy about a gentleman and he said we will put him into the school but we have a list, a standing list of about three months behind.

Q Have any men come to you seeking training on cranes?

A We had one young man who came to us who asked if we could help him secure a crane to take the examination for Local 14, and that was George McDonald.

Q Were you able to secure a crane for him?

A We attempted to.

Q Did you secure one?

A That is quite a complicated and expensive proposition.

Q How did you attempt to secure a crane for an examination?

A Mr. McDonald went to a contractor who informed him that there are several firms in the City of New York

that lease other equipment to contractors. As I understand it, the contractor doesn't always own their equipment, that they acquire the equipment under a lease arrangement, and that if he wanted to acquire a crane to take an examination for Local 14, that he would have to do the same.

Q Did he tell you how much it would cost?

A Yes. It was something like $150 a day and we had to put up $500 retainer fee.

Q Do you have any agreement or have you had any agreement with Local 14?

A No.

Q Have you ever attempted to set up an agreement with Local 14?

A No, because the requirements for entry into Local 14 were pretty cut and dried.

You have to pass the City examination to acquire the license to get into Local 14 and we have placed one gentleman into Local 14, Stanley Drayton.

Q Have you ever talked to any officer of Local 14 about getting people in?

A Yes, once. I met once with Tommy -- I can't recall the gentleman's name, from Local 14. I should know his name.

MR. KENNEDY: Thomas Nolan?

A Yes, from Local 14. We had a discussion about it and his position was if you have people who can pass the City license examination, we would be happy to have them.

Q Do you know if the City licensing authorities require a certain amount or type of experience prior to taking the examination?

A Yes, their requirements are several.

One, you have to have a certain number of years' experience and documentation be provided for that.

Two, that you have to have your own equipment to take the examination on; and

Three, that you get a passing score on the written examination.

Q Do you know how people get that experience?

A If a person can get from employers that he worked for in the past a statement to the effect that he has worked in the industry and performed to their satisfaction, usually that suffices as proof of experience.

Q Do you know how people get experience on the equipment before getting such a letter?

A Most instances it is a transition in coming from Local 15 to Local 14, which is why we have devoted our

attention to getting guys into Local 15 first so they could acquire the experience on the equipment and then move into Local 14.

MR. GLASSMAN: I have no further questions.

BY MR. KENNEDY:

Q Stanely Drayton was the first person that came to you and wanted to be a crane operator?

A Yes.

Q He had had Army experience, isn't that correct?

A Yes.

Q You sent him down to Local 14, did you?

A Yes.

Q Mr. Drayton is, to your knowledge, a member of Local 14 today?

A That is right.

Q At the time that Mr. Drayton came to you, do you know whether or not he had the necessary experience to take his license examination?

A Some 20 years.

Q In the Army?

A In the Army. He was a retired Sergeant of the Army Engineering Corps. He had worked as a crane operator all over the globe.

Q You never received any complaints from Mr. Drayton

about his treatment from Local 14?

A He was hired the day that he went there, the first day that he was referred to Local 14 he was snapped up immediately and very shortly thereafter he got into Local 14.

Q The reason I brought that up, frankly, we were talking about experience. You said one could get experience through Local 15 in order to come into 14.

But as Mr. Drayton pointed out, you get your experience in the Service and come directly in, could you not?

A You could, of course.

Q If you got experience outside the City of New York, that would be counted by the City, would it not?

A Yes.

Q And if you were in perhaps another operating engineers' local, that would be another way, would it not?

A Yes, it would be.

Q There was nothing in your discussions with Mr. Nolan or any other person that you may have talked with in Local 14 that would indicate they are not willing to take minorities in, was there?

A No. Always without exception over the years the position has always been if you have qualified people,

we will take them into the local.

MR. KENNEDY: Thank you, sir, I have no further questions.

REDIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Roffle, you have testified that you get the same people complaining time and time again and there are complaints regarding the referral of jobs.

Have you received complaints from these people that said, to the effect that other blacks are being referred out ahead of them?

A Yes. There seems to be a feeling there is some sort of conspiracy that works for certain blacks who belong to the local. If you are a favorite you get the better jobs.

Q These are from the same few people?

A Yes.

Q Now, you mentioned the name Keith Wilson. Did in fact -- were you in fact present at the meeting with Mr. Wilson and Mr. McGuire where something was resolved about Mr. Wilson?

A Yes.

Q When was that?

A That was in the spring of last year. Mr.

Wilson had been complaining bitterly so about him not having acquired a book in the local and he had been shaping the hall a long period of time and hadn't received work.

Q Did he tell you at that point that he hadn't been down to the hall for a long period of time, he had been away?

A Yes, he said he had been given up trying to, getting a job from the hall and just stopped going for a period of time.

Q Did he say where he had been, do you remember?

A No.

Q Do you recall if he mentioned being in Jamaica?

A Yes, right.

Q Did he say how long he had been in Jamaica?

A Since he said he had gone to Jamaica, as I recall, for a couple of months. During the winter months he had gone to Jamaica.

Q At this meeting did not in fact Mr. McGuire agree to let Mr. Wilson get into the school?

A He did. The agreement reached was that Wilson would be taken back to the school, firstly.

Secondly, that an attempt would be made to try and find employment for him then if it meant being referred to jobs of only one or two days' duration, they would try to find work for him.

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Q Did Mr. Maguire tell you what Mr. Wilson's proficiency was, as far as operating the machine?

A Yes, he did.

Q What did he say?

A He said that Keith Wilson needed a lot of training and that the best -- it was in his best interest to go to the school and stay in the school and to go regularly before he would ever be able to be referred out as an operator.

Q And was this last year?

A I said last spring.

Q Did Mr. Wilson in fact get right into the school at that time?

A He asked for a couple of weeks' delay because of some personal business, and then thereafter he did start attending the school, yes.

Q He is still in school,as far as you know?

A I haven't had contact with him in quite a while. I assume, I hope that he is.

Q When you received some complaints about the unfairness of the test did you make a determination yourself as to the fairness of the test?

A There was a situation involving George McDonald, who claimed that he had not been graded fairly

on the performance exam, so I went out to the training center and McDonald was given the examination with me as the monitor there.

Now, I am not, admittedly, a crane operator. What could I tell you about who was qualified and who is not qualified. Nonetheless, he, on the first piece of equipment that he was operating, the bulldozer, dropped a boulder on top of a cab with a truckdriver in. And there were other incidents that even to a layman it was obvious that he needed some polishing up at least.

Q So you felt that his complaints about the test were unjustified?

A Yes. And he agreed to it.

After the examination there was a meeting to discuss what had happened, and after some discussion he agreed that he had not done well on the exam.

Q Now, this letter that's been in evidence regarding Mr. Neville Aikman, did you have anything further to do with that matter after that point?

A No, I did not, and, quite frankly, the reason that it did not strike a responsive chord when it was first mentioned, first, it happened such a long time ago and, secondly, since I no longer work

in the field I am not intimately involved with the referrals of operating engineers until there is a problem that develops, and I never personally handled Mr. Aikman's problem.

Q Do you know if he ever followed up on his attempts to get into the union?

A No, no.

MR. BRADY: I have no further questions.

THE COURT: You are excused.

(Witness excused.)

MR. BRADY: I call Mr. Hammond.

REESE HAMMOND, called as a witness by defendant Local 15, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Hammond, by whom are you employed?

A The International Union of Operating Engineers.

Q And in what capacity?

A I am the director of research and education of the Washington office.

Q In that title are you familiar with the Jacob's Creek training program?

A The Department of Research and Education has jurisdiction over training programs for our international union and I negotiated the contract that put the Jacob's Creek Job Corps operating engineer program into effect in October of 1966. It was the first trade union Job Corps program in the nation.

Q Can you describe for the court, please, what the goals of the program are?

A Well, if you know the Job Corps population, by definition they are disadvantaged in a number of different ways, educationally, economically, many of them nutritionally.

They are young lads between -- we deal with the young lads; they do have young girls too -- they are between 16 and 21 to be eligible for the Job Corps.

In order to be eligible for our program, they have to be at an age so that when they complete, they will be 18 years old.

Q When they complete they will be 18?

A They will be at least 18 years old when they complete their Job Corps training.

It's a combination of a thousand hours of remedial education and a thousand hours of exposure to heavy equipment, both classroom exposure and very heavy

emphasis on on-the-job training.

Q I assume when you said remedial education you are talking about a common school subject matter?

A That's the Job Corps piece. We only handle the other thousand hours.

You see, most of these youngsters are severely educationally deprived -- fourth, fifth, sixth grade droputs -- and part of the overall Job Corps scheme, of course, is to make them functional insociety, in reading and writing and that type of thing, our essential social skills.

Q And the other portion that you are more concerned with is the equipment portion?

A The actual heavy equipment program, which involves some exposure to mechanics, theory, very basic kind of stuff, because the kids can't handle a whole lot, at least not at the beginning -- grade stakes. We try to relate the algebraic function in a very practical way: your two-to-one slope is a certain kind of triangle, and the kids can go out and shoot it and understand it, and we try to tie their experience, their work experience, in with the on-the-job training.

Q Now, have you completed your answer?

A I could talk about this for a couple of

hours.

Q How about the equipment experience they get, Mr. Hammond?

A We require that the government -- we contract this training with the government. We require that the government provide us with certian types of equipment, bulldozers, a scraper, the grader, and we have those in all of our centers.

Now, Jacob's Creek happens to be a large center, we have two of the larger centers, seven smaller centers, and we have a hydraulic backhoe down there

THE COURT: Where are these centers?

THE WITNESS: Geographically, they are in Tennessee, Indiana, Arkansas, Missouri, Wisconsin, Montana, Colorado, Utah and the State of Washington, and they are all located either on -- they are all on federal property, either in the Department of Interior Park Service or in the Department of Agriculture Forest Service preserves.

THE COURT: And none here in the neighborhood of New York City.

THE WITNESS: There are no job centers functional at all in the Northeast any place.

BY MR. BRADY:

Q Now, when the young man has completed his year's training on the equipment, what are his capabilities in so far as operating as a journeyman, say, in the City of New York?

A Well, that depends on the individual youngster. In general, we have tried to take them from the tell, show, do stage where they have the machine right in the yard out onto the job. We use a lot of peer group instruction, and the kids that know a little bit more correct the kids that are coming along behind them, and we try to take them up to what we consider are production standards, that is, that the essence is not to know how to pull the levers but to know how to pull them right, and we've got a significant amount of success, I suppose.

We like to see them when they leave get assigned to a job where they will be able to refine what they have learned and we have been very successful in having our journeymen on the jobs and our master mechanics, and in many instances, I might say right here in New York, business agents actually going out and trying to help the kids, if they have got a rough spot in the way they operate.

Q They do receive a certificate when they graduate, do they not?

A Well, they receive a certificate. Certificates are dynamite and we finally had so much pressure -- you know, it's what they can do with their hands that counts, not what it says on the paper. So we finally worked up what we thought was a reasonably accurate certificate which spells out what the youngster had done at Jacob's Creek, which was to run equipment under very close supervision.

Q And he would still necessarily need direct close supervision on the job, would he not?

A Of course.

MR. DEVORKIN: With this witness can Mr. Brady conduct a direct examination instead of a cross examination? Really.

THE COURT: I am trying to find out what goes on here and what this man's opinions are.

MR. DEVORKIN: I understand. I would like it to come from the witness instead of Mr. Brady.

THE COURT: All right. Go ahead, Mr. Brady.

Q Now, Mr. Hammond, when the man is a graduate

of school and comes to, say, the New York area, would you expect him to be able to go out on a New York construction site and operate there on an eight-hour basis as a journeyman operating engineer?

A No.

Q And I realize it depends, as you said, upon the ability of the operator, but how long do you think it would take for a young man to develop such skills to be able to operate in a producing way for a contractor in the City of New York?

A Well, it depends, again, on the youngster and an awful lot of that depends on his sense of confidence.

If he can operate well, say, out on the training site, or even out on the training site at Kennedy, then you have got to put him into all of the variables in New York City;they are almost unbelievable, the most difficult place in the world to work. But if the kid has confidence and he goes ahead, I would imagine he could get up to where he is making money for a contractor.

I would say if he came with the skills on a given piece of equipment, he could make money for any contractor on any job. If he worked around for a couple of years and knows all the different kinds of, you

know -- how you break pavement. Nobody ever broke pavement in Jacob's Creek because there is no pavement; nobody ever loaded pavement because there is no pavement.

You don't work around the rest of the crew out there. We are out by ourselves, like we would be on a typical highway job some place in upstate New York.

Q Mr. Hammond, are you familiar with the Army training in any way?

A Yes, I am.

Q How are you familiar with it?

A In 1961, when I was assigned the job of developing the national apprenticeship program for the operating engineers I made it a point to visit Fort Belvoir and observe at that time the training that was taking place there, which was for mechanics.

And I also went in, I think, the spring of '62 to Fort Leonard Wood to observe the equipment operator training, which all takes place down there, with the exception of asphalt paving operators.

I have observed the training on a number of occasions since then. I have been to Belvoir a number of times. I have been back to Fort Leonard Wood.

I have visited with the 52nd Engineer Battalion at Fort Carson. I visited with the 7th Engineer Brigade in Bavaria, with a number of their construction and combat companies.

I am familiar with the training.

Q Have you had meetings with Army personnel recently regarding training?

A Since the mid-1960s, I would say, I would suppose, right after they got over the bulge for Vietnam, the Army had been very much concerned about -- not the entire Army but the Corps of Engineers had been concerned about what the Department of Defense calls shredding.

Shredding was an intentional attempt on the part of the Department of Defense to narrow skills that soldiers or airmen or sailors had so that they wouldn't be as available on the outside, so that they could keep their highly skilled people.

This results in, an example -- it is not heavy equipment -- I can give you that and I will give you that, but an airframe mechanic works on an F-4, he doesn't work on an F-111, or anything like that. He only works on the F-4, and so when he comes out whatever core skills he got are transferrable but, accord-

ing to the training people that I have worked with out of the Department of Defense, he has that kind of limitation.

Q Would the Army man in Corps of Engineers who is an equipment operator have the same type of limitation?

A Well, they were shredded up until recently and that is that a follow --

MR. DEVORKIN: Your Honor, can we have, if the man is testifying about conversations he had with Army officials to reach that conclusion -- can we have the conversation or the men he discussed it with, because I can't rebut any of that.

THE COURT: All right.

Q Can you name some of the Army personnel that told you this?

A Well, we have dealt with now retired Colonel Walter Highlander. My in-depth comments on shredding come from Colonel Charles Briggs. I have talked with Major Stephenson; I have talked with Colonel Castro, deceased Boyce Brown -- that doesn't help your cross, I know that, but he was a very, very influential guy in this whole coming together of the Corps of Engineers and the operating engineers.

Q All these people that you just mentioned are Army officers?

A They worked for the Department of the Army or are working for the Department of the Army. All of them military with the exception of Mr. Brown.

The shredding that affects the engineer, that is that a fellow finishes basic training, and if he is an engineer soldier, he goes to advanced individual training which is given at Fort Leonard Wood for equipment operators and at AITthere involves six or seven weeks of exposure to one piece of equipment, perhaps two. I think the front-end loader also works with the rough-terrain loader, I guess they call it.

That has resulted -- and the fellow is then assigned to a battalion or to a line outfit, and when he hits there the sergeants have to take him and make him into an operator.

MR. DEVORKIN: I object again. Who has told him the sergeants have to --

THE COURT: Let's get off this.

What you are saying is that under government policy people coming out of the Army are not as well equipped as they would appear to be?

THE WITNESS: People coming out of the

Army schools are not as equipped as they will be when they come out of the Army, and when they come out of the Army they are nowhere near as broadly equipped as a competed apprentice.

THE COURT: That's your opinion and that's based on conversations that you have had.

THE WITNESS: And observations.

THE COURT: And observations.

All right, get on to something else.

Q How would that Army-trained man compare with a New York City operating engineer?

A Well, a good hand like the sergeant you mentioned, you know, 20 years' experience, he can do all right. The fellow that has less experience, it's a very individual kind of matter.

I know this: that a real journeyman engineer in New York City can work anywhere.

MR. BRADY: May I have just a moment, your Honor?

(Pause.)

BY MR. BRADY:

Q One point further. Mr. Hammond, have you had the opportunity to observe the type of equipment that is used at the Army installations, and if you have,

can you compare it with the equipment used in an urban area such as New York City?

A Well, the scrapers they use are a peculiar animal to the Army. They are called an 890. They are a component from Caterpillar tractors, and the engine from one scraper and the components from another. But you don't use many scrapers in here.

The bulldozers they just replaced with the D-7s. That's a small bulldozer. 6s and 7s are both kind of small. 8s and 9s, of course, are the production machines.

The front-end loaders, I would say, are comparable but they are small, they are only two-and-a-half yard loaders, not the six and eight and ten-yard loaders that we get outside.

And the graders, they are using CT-14s now, which I think would be a comparable machine.

T5

Q Is most of the equipment in the Army rubber-tired or cat, do you know?

A Well, most of the tractors are on tracks and the bulldozers and larger cranes, and the rest is rubber-tired.

There are a lot of loaders and mobile cranes and pans, scrapers.

MR. BRADY: I have nothing further.

THE COURT: Is some of that equipment designed to be air lifted?

THE WITNESS: Not in the line outfits. The airborne outfits have some specially designed equipment.

MR. KENNEDY: I have just a few questions.

CROSS EXAMINATION

BY MR. KENNEDY:

Q Mr. Hammond, there has been some testimony in the course of this trial about promises being made through literature or otherwise, of receiving books in the union after graduation from the Job Corps. Do you know anything about that?

A We have designed recruiting material for the Job Corps and at the beginning of the program I was personally responsible for sending the youngsters out to work and we encouraged these kids to do their best and send them

out in the industry to put them some place where somebody might help them to get more training.

There is a lot more of training involved in the way of help as some kids don't come back home, they go three, four hundred or a thousand miles away from where they came from and we tell them to stick to the union hall until they are placed, stick close until they are placed.

We tell them when they are placed they will get whatever the rate for the job is that they are capable of doing. We point out that these rates are pretty good because they are union rates.

Q Do you guarantee them a book in any of the literature youpass out to them?

A No, we tell them they will have an opportunity to join the union, which means if they can do the job after they are all through the training, they will get into the union, and they do.

Q Do you guarantee them jobs when they get out of school?

A No, we can't guarantee anybody a job.

MR. KENNEDY: I have no further questions.

BY MR. DEVORKIN:

Q Mr. Hammond, are you generally familiar with the

constitution of the International Union of Operating Engineers?

A Yes, generally.

Q Is there an apprentice provision in there?

A There is a provision for registered apprentice, yes, sir.

Q Is there a provision that suggests to local unions they should have apprenticeship programs?

MR. KENNEDY: The document speaks for itself, it is in evidence.

THE COURT: I know it is, but if he can tell us, all right. We can look at the document.

A I believe that is exactly the words used.

Q Do you have a lot of local unions in the country that do have apprenticeship programs?

A Yes.

Q All of those unions would be unions where the work in New York City done by 14 and 15 would be in the same local union, correct?

A Yes. They would have jurisdiction over the licensed and unlicensed.

Q Both the cranes and the Kayser equipment that 15 has?

A That is correct.

Q Do these unions have registered charters with the International for their apprentice divisions?

A Some of them do, yes.

Q Do you encourage local unions to do that?

A Well, I would like to explain what it means --

Q Would you answer my question first, Mr. Hammond? That is all you have to do. Do you encourage local unions to do that?

A You want a yes or no?

Q Is there a yes or no? Do you or do you not encourage them?

A No. We have it in there because we think it is good. Each local union has to make a decision what is best for itself in the conditions they are under and if they want one they get it.

Q Do you ever encourage local unions to have such apprentice charters?

A I sell the idea of apprenticeship everywhere, yes.

Q I take it you have been successful on some occasions?

A Yes.

Q When a man leaves the Job Corps Training Center at Jacob's Creek is he told that he will be referred to

work of any kind?

A The referral is actually to the local union and we try to make arrangements with the local union ahead of time to see that when he gets there he will be placed fairly soon because these youngsters only come out with about two or three hundred dollars pocket money and they can't last too long.

We are turning out more and more kids every year and so it is not always possible to fit them quite as closely as we did at one time. But in general they are referred to the local union, the local union expects them and the local union gets a carbon copy of the letter we give the youngster, so when the youngster shows up the local union knows where he came from.

Q The local unions have agreed to refer the men to work?

A Yes. Whatever the kid can do, sure.

Q Is that an important element in the success of the Job Corps Program?

A It certainly is.

Q You consider the Job Corps Program run and supervised by the International to be successful?

A We placed a lot of youngsters that wouldn't have anything going for them if we hadn't had that program.

Q You feel you have given them good training?

A We feel we have started them on the road. We take them as far as their talent and ambition will take them, yes, sir.

Q I show you a copy of Plaintiff's Exhibit 84 in evidence and ask you if that is the kind of letter that is given to a graduate of the program with a carbon to the local.

A That is signed by Smokey Hamilton, the Eastern Regional Director of our Job Corps Program.

Q Is that a letter that a man who graduates is normally given?

A Something along these general lines. This looks like a form letter they were using for quite a while.

Q Have you been out to the Local 15 training school at Kennedy Airport?

A I was there when it was dedicated. I haven't been there since.

Q Have you been there since?

A No.

Q Do you know what equipment is out there?

A I know what was out there at the time I was there, it was several years ago. A couple of hoes and a dozer and a front-end loader. There weren't any pans

when I was out there. There were a couple of revolving rigs, too.

Q Is it your opinion that that school gives good training?

A Yes, it certainly is. They have good instructors and it is current equipment. It is equipment that could come right off the contractor's job.

Q When was the last time you were there?

A When it was dedicated.

Q Do they break pavement out there, if you know?

A I don't know that.

Q Do they build any roads out there, if you know?

A I imagine they probably do some, somewhere teach the kid to work the stakes but I don't suppose they build roads.

THE COURT: He hasn't been there since it was opened.

MR. DEVORKIN: I understand that, your Honor.

Q Have you ever sent any of your local unions throughout the country information or requests for comments about the military training program?

A Have we ever sent requests for comments on the military training program to our local unions?

Q Yes, sir.

A Some of the material that we worked on with the Army we may very well have sent out to local unions for comment. I can't think of anything specific, but I don't doubt it.

The apprenticeship master record which we developed with the Army was sent out in August of 1973, but I don't believe that was sent out for comment. That was sent out for information so that they would be familiar with the book if somebody came in.

Q It was to inform the local union what the Army was doing?

A Yes.

Q Is that fair?

A Yes.

Q Do you know what the length of the Fort Wood Training Program was in 1972?

A In 1972 --

Q Let us take the period between 1969 and 1972. Do you know what the Army training program consisted of?

A It is between seven and perhaps outside nine weeks -- it might have been six to nine weeks, different pieces of equipment sometimes with a week longer than others.

Q Considering that period of time, how many pieces of equipment did a man receive training on?

rp9 Hammond-cross

A At that time the MOS was for one piece of equipment and his advanced individual training was on that piece of equipment with the exception of the front-end loader, who also learned now to run a forklift and there was a title called General Construction Machinery which is pumps, compressors and maybe heaters. So this technically would be more than one piece.

Q All the men would get the General Construction Machinery?

A No, the General Construction Machinery operator is different than the front-end loader and the rough terrain forklift operator is different and the bulldozer and crane operator is different and the scraper operator is different.

Q Prior to 1969 was the Army program the same or different than now?

A It was significantly different. In 1961, when I did a study, we broke it out by hours and weeks and quite frankly I believe it was a little bit longer and much broader.

It dealt with just a kind of introduction to a number of different pieces of equipment rather than an attempt to give any salable skills.

Q Has the International Union ever written to

local unions asking them to recognize the Army's training program and grant a man journeymen status after they had finished?

A In all the material we sent out from the Army we have stated that the information that would be contained if a soldier walks in or a sailor walks in with this book, it should be important to you because it substantiates the fact that he has put in this much time and it is signed by his sergeant and it has been summarized.

And we say that, of course, this should not substitute for whatever tests you give them and if you got a fellow who's work is as good as his paper is, there is no problem and we test them and he goes to work.

Q You have given formal apprenticeship recognition to the Army Training Program, haven't you?

A No. As a matter of fact, the Interservice Apprenticeship Program for the military equipment operators and engineers is now tied up in Tridock and that is the command of the Army and it has been there over a year. We have --

Q The answer to my question is no, is that right?

A Yes.

Q Who is Hunter P. Wharton?

A The general president of the International

Union of Operating Engineers.

Q Do you work for him?

A I do.

Q I show you a copy of Plaintiff's Exhibit 103 for identification.

xx (Plaintiff's Exhibit 103 marked for identification.)

Q I ask you if you recognize it?

A It is a letter drafted me for the general president's signature and he approved it and I am familiar with it.

Q Did he send it out to all local unions of the IUOE?

A It hasn't been sent out anywhere yet.

Q Do you know if you have discussed this matter with Mr. Wharton?

A Yes.

Q Is this an accurate statement of his and the International's position?

A It certainly is.

MR. DEVORKIN: I offer Plaintiff's Exhibit 103.

MR. KENNEDY: I object on the ground that it has not been sent to any of the locals and they are not bound by it.

THE COURT: I will receive it. It has not been sent to the locals and it is not binding on the locals, but I will receive it.

xx (Plaintiff's Exhibit 103 for identification received in evidence.)

MR. DEVORKIN: I have nothing further, your Honor.

MR. BRADY: I have nothing further, your Honor.

MR. KENNEDY: No questions, your Honor.

THE COURT: You are excused.

(Witness excused.)

THE COURT: We will take a short recess.

(Recess.)

MR. BRADY: Your Honor, the only thing further that I would have at this time, and I think we might shorten that, is that I asked the government if they might stipulate that if Mr. Murphy testified, not stipulating to the truth of the statements, that insofar as that conversation with Mr. Neville Aikman, that he would testify that no such conversation ever took place.

THE COURT: You might as well have him testify to it. We have a half hour.

J O H N M U R P H Y, was called as a witness by defendant Local 15 and, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BRADY:

Q Mr. Murphy, you are a business representative employed by the Operating Engineers, Local 15?

A I am.

Q And how long have you been a business agent?

A Twenty-four years.

Q Mr. Murphy, there has been some testimony in this trial alleging that you had a conversation with a Mr. Neville Aikman at which time you advised him that in order to get a union book he would have to pay you

a certain sum of money.

Did you ever have such a conversation?

A I did not, no.

Q Did you ever make such a demand of any person?

A No, sir.

MR. BRADY: No further questions, your Honor.

CROSS EXAMINATION

BY MR. DEVORKIN:

Q Have you ever had any conversations with Mr. Aikman, Mr. Murphy?

A Not to my knowledge, I have not, no.

Q Do you know who Mr. Aikman is?

A Really, I don't.

Q Were you in court the day he testified?

A No. I believe I left to a meeting prior to that because Bob Brady, Mr. Brady, informed of it later that night.

MR. DEVORKIN: Can I make Mr. Murphy my own witness for a moment?

THE COURT: Sure.

Q Do you know Mr. Joquin?

A Yes, I do.

MR. BRADY: I think this is beyond the scope of the direct.

THE COURT: I'll let him make him his witness.

Q Do you know Redus Shorter?

A Yes, sir.

Q Have you ever had any conversations with Mr. Shorter?

A I probably have, involving the work. I have sent him out to jobs.

Q How many conversations do you think you have had with Mr. Shorter?

A Really, I don't remember.

Q Do you remember any of them?

A I don't remember anything on that, no.

Q Which shorter is it that you know?

A Redus.

Q Are you also vice president of the union?

A Yes, sir.

Q Did you attend a meeting of the union membership on October 3rd?

A Yes, sir.

MR. BRADY: Your Honor, I will object to this.

THE COURT: We are going back into this same thing?

MR. DEVORKIN: Your Honor, can we approach the bench?

THE COURT: Sure.

(At the bench.)

MR. DEVORKIN: The reason I inquired is because as to the evidence Mr. Brady was offering Mr. Murphy for, a key issue is the credibility between Mr. Murphy and Mr. Aikman. There's been testimony already from Mr. Dan Murphy, an officer of the defendant, about what actually happened, and I want to test Mr. John Murphy's credibility by seeing what his recollection reveals, and if he absolutely denies it ever happened --

THE COURT: You know, I think the whole government's case, really, I based on this meeting where somebody called the witnesses sons of bitches, and it's an awful confession of weakness, it seems to me, but go ahead.

MR. BRADY: I would like to note my objection to that.

THE COURT: All right. Go ahead.

(In open court.)

Q Were you at that meeting on the night of October 3rd?

A Yes, I was.

Q Were all the other business delegates there?

A Yes, they were.

Q Were you there for the entire meeting?

A Yes, sir.

Q Were there any conversations about this case?

A Yes, there were.

Q Did business delegates get up and speak about this case?

A Well, I don't know if they all did, but I know I made some comments and some of them --

Q Did Dan Murphy?

A Yes, Dan did.

Q What did you say, Mr. Murphy?

A Well, at a union meeting you make reports to the members on different jobs coming up, what happened; and when they are bid, the price of the bid, when they will start.

We keep them informed on everything that is possible so they will know what's going on in the busi-

ness, and since this trial was going on I've gotten many, many times, and phone calls, "How do we stand? How are we making out?" and such as that.

And that night at the meeting I did say, "Well, then bastards lied in the courtroom," not naming anybody individually, but I did make that comment.

Q Did you or anyone else make any threats toward anybody?

A No, sir, that's not necessary to make any threats.

MR. DEVORKIN: Nothing further.

MR. BRADY: I have nothing further, your Honor.

MR. KENNEDY: I have nothing further, your Honor.

THE COURT: You are excused.

(Witness excused.)

MR. KENNEDY: That 15's case?

MR. BRADY: Yes. Mr. Corcoran yesterday, in part of his presentation, requested some time to submit figures on the increased population.

THE COURT: All right. I am leaving the case open because obviously the government may want to put in additional evidence.

MR. BRADY: Thank you, your Honor.

THE COURT: So I'll just have to adjourn it without date and hope to get back to it as fast as I can.

I am trying, meeting with counsel on a trial that starts next week, with the hopes of maybe foreshortening it somewhat, but then, again, I've got a heavy criminal schedule hanging over me now that runs right into or well into the winter of next year.

MR. KENNEDY: Your Honor, I just wanted state for the record --

THE COURT: But I would only think that we need a couple or a few days.

MR. DEVORKIN: I think we need less than year.

THE COURT: Mayve if there is documentary evidence or anything that you want to add in the way of documentary evidence, that you can offer, statistical information, correction of what is already in, I am sure that you and the government can get together and take care of it so that we don't have any loose ends, and then I'll try and set it down for a day or two days within the next few weeks, I hope.

Yes, I wanted to state on behalf of Local

14, your Honor, that I have one or two small pieces of documentary evidence and I am attempting to work it out with the government now. I trust that we will be able to reach at least some type of agreement.

If not, then we will certainly report to you on it.

THE COURT: The case remains open, leaving it as it is now, and I will make every effort to get back to it for a day or two days, whatever it takes, to close it out, as soon as possible.

MR. BRADY: Thank you.

MR. KENNEDY: Thank you, your Honor.

MR. DEVORKIN: Thank you very much, your Honor.

(Adjourned without date.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Donald Roffle	3688	3696	3714	
Reese Hammond	3718	3731		
John Murphy	3743			